

United States Bankruptcy Court Eastern District of Missouri

Dana C. McWay
Clerk of Court



LOCAL RULES OF BANKRUPTCY PROCEDURE

March 31, 2003

Adopted by:

Honorable James J. Barta, Chief Judge
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United States Bankruptcy Court
Eastern District of Missouri

LOCAL RULES OF BANKRUPTCY PROCEDURE

INTRODUCTION - SCOPE OF RULES

L.B.R. 1001-1 Scope of Rules and Forms; Short Title.

- A. **Title and Citation.** These rules are adopted pursuant to Rule 9029 of the Federal Rules of Bankruptcy Procedure to govern the local practice and procedures before the United States Bankruptcy Court for the Eastern District of Missouri (the “Court”). These rules shall be known as the “Local Rules of the Bankruptcy Court for the Eastern District of Missouri” (the “Local Rules,” “Rules”) and shall be cited as “E.D.Mo.L.B.R.____” or “L.B.R.” herein. These Rules may be amended or supplemented from time to time by additional orders as the Court deems necessary. Any amendments to these Rules will be contained in the procedures manual (“Procedures Manual”) described in L.B.R. 1001-1E. All references to provisions of the United States Bankruptcy Code are to 11 U.S.C. § § 101-1330.
- B. **Application.** These Local Rules shall apply to all cases and proceedings in the United States Bankruptcy Court for the Eastern District of Missouri pending on and filed after the effective date of these Rules except to the extent the Court determines application of the Rules would not be feasible. Failure to comply with these Rules may result in denial of relief requested, dismissal, or other sanctions.
- C. **Effective Date.** These Rules become effective on March 31, 2003. These Rules supersede all previous rules or General Orders promulgated by this Court or by any Judge of the Court.
- D. **District Court Rules.** The Local Rules of the United States District Court for the Eastern District of Missouri shall apply in cases and proceedings in the Bankruptcy Court only to the extent the District Court Rules are specifically incorporated into these Rules. Rule 9.01 of the United States District Court for the Eastern District of Missouri governing bankruptcy matters is incorporated herein.
- E. **Procedures Manual.** The Clerk of Court will publish operating procedures for this Court in a procedures manual. The Procedures Manual will contain local forms, guidelines and instructions incidental to these Rules as well as any orders amending or supplementing these Rules. The Procedures Manual will be appended to these Rules and will be maintained on the Court’s website at www.moeb.uscourts.gov. Reference in these Rules to any form, guideline or instruction in the Procedures Manual shall refer to the then-applicable form, guideline or instruction maintained by the Clerk of Court.

- F. **Definitions.** When these Rules require notice to or service upon the “debtor,” “creditor,” or other named party, service shall be made upon the attorney for such party unless service on the party is specifically required by these or other applicable Rules.

PART I. COMMENCEMENT OF CASE; PROCEEDINGS RELATED TO PETITION AND ORDER FOR RELIEF

L.B.R. 1002-1 Case Commencement.

- A. **General Procedures.** The Clerk of Court shall decline to accept for filing, and the Court shall promptly dismiss any case if:
1. the petition is not signed by the debtor(s);
 2. the petition is not accompanied by a matrix and verification pursuant to L.B.R. 1007-2; or
 3. the filing fee is neither paid nor provided for.
- Refer to the Procedures Manual for the number of copies, filing fees, and other requirements for commencing a bankruptcy case.
- B. **First Day Matters in Chapter 11 Cases.** The Court will typically entertain first day matters within two (2) business days of filing. Movant must give notice of first day matters to all entities who would be on a Master Service List (L.B.R. 9013-3 C.) if such a list exists, or to those who would be on such a list, and to those who may be affected by the matter.

L.B.R. 1006-1 Payment of Filing Fees in Installments.

- A. **Local Form.** All applications to pay filing fees in installments shall be filed using a form in substantial conformity with Local Form 1.
- B. **Installment Filing Fees in Chapter 13 Cases.** In Chapter 13 cases, any unpaid filing fee installments must be paid through the Chapter 13 plan. The appropriate box must be checked on the Application to Pay Filing Fees in Installments (Local Form 1) and a provision for payment must be included in the debtor’s Chapter 13 plan (Local Form 13).

L.B.R. 1007-1 Extension of Time to File Schedules and Statement of Financial Affairs.

Any request for additional time to file schedules or the statement of financial affairs must:

1. be filed before expiration of the deadline;
2. seek extension to a date certain for filing the missing documents;
3. disclose the date the petition was filed;
4. disclose the date of the § 341 meeting;

5. disclose all prior extensions granted; and
6. include a proposed order as required under L.B.R. 9050-1.

The request to extend time must be served on the trustee and in Chapter 11 cases on those entities who would be on a Master Service List if such a list existed in the case. If the Court extends the time for filing schedules to a date that is less than ten (10) days before the scheduled § 341 meeting of creditors, the debtor must contact the trustee to verify whether the § 341 meeting should be rescheduled. If the meeting is rescheduled, the debtor must serve notice of the continued § 341 meeting date on all creditors and parties in interest as required by L.B.R. 2003-1 A. and must file a certificate of service (L.B.R. 9004-1 D).

L.B.R. 1007-2 Matrix. The debtor must file a list containing the name and address of each creditor in the format specified in the Procedures Manual. This list is called the creditor “matrix.” The debtor must also sign and simultaneously file a verification of creditor matrix (Local Form 2) following instructions in the Procedures Manual. The matrix and verification must be filed with the petition pursuant to L.B.R. 1002-1 A.

L.B.R. 1009-1 Amended Schedules or Matrix.

- A. **Content.** An amended schedule or matrix shall include only the names and addresses of creditors who have been newly added or for whom information has changed. Along with the amended schedule or matrix, the debtor shall file:
 1. a memorandum stating the reason for the amendment, which shall list the name(s) of the creditor(s) added or affected by the amendment and a description of the applicable change(s); and
 2. a signed declaration or verification for the amended schedule or matrix.
- B. **Service.** The debtor shall serve the amended schedule or matrix and the memorandum on the trustee and on every creditor included in the amended document. A copy of the last issued notice of commencement of case must be served with the memorandum and amended document along with a proof of claim form and notice of the claims bar date in any asset case. In Chapter 13 cases, the debtor must also serve a copy of the current Chapter 13 plan on every creditor included in the amended document. The debtor must file a certificate of service listing the documents served in full compliance with L.B.R. 9004-1 D.

L.B.R. 1015-1 Joint Administration and Affiliated Debtor Cases.

- A. **Joint Cases.** The estates under a joint petition filed pursuant to 11 U.S.C. § 302(a) will be jointly administered unless otherwise ordered by the Court.

- B. **Affiliated Debtor Cases in Chapter 11.** Refer to the Procedures Manual for instructions on filing affiliated debtor cases to be jointly administered under Chapter 11.

L.B.R. 1017-1 Motions to Dismiss or Convert in all Chapters.

- A. **General.** All motions to dismiss a bankruptcy case must state whether the case has been converted and other relevant facts in support of the motion, including whether the debtor has entered into an agreement with a creditor or with the trustee that is a basis for the motion to dismiss. In Chapter 7, 11, and 12 cases, the movant must give notice of the motion to all creditors and parties in interest. In Chapter 13 cases, the debtor's voluntary motion to dismiss must be served on the Chapter 13 trustee. All other motions to dismiss a Chapter 13 case must be served on the debtor, the debtor's attorney, and the Chapter 13 trustee. Negative Notice procedures as set forth in L.B.R. 9061-1 apply to motions to dismiss except as stated herein.
- B. **Motions to Dismiss for Failure to File Required Papers.** Pursuant to 11 U.S.C. § 105(a), the Court may promptly dismiss a bankruptcy case for failure to timely file the schedules, statements, or lists required under 11 U.S.C. § 521 or these Rules. In Chapter 12 and Chapter 13 cases, the Court may also dismiss the case for failure to file a Chapter 12 or 13 plan when due.
- C. **Motions to Dismiss for Failure to Appear at § 341 Meeting.** The trustee shall file a request to have the case dismissed if the debtor fails to appear at a rescheduled § 341 meeting of creditors without being excused by the trustee, the Court, or the United States Trustee, provided the trustee has notified the debtor in writing that failure to appear may result in the case being dismissed. On receipt of the trustee's § 341 minute report or other document requesting dismissal, the Court may dismiss the case without further notice.

L.B.R. 1017-2 Motions to Dismiss in Chapter 13 Cases.

- A. **Time for Response and Hearing on Motions to Dismiss in Chapter 13 Cases.** Motions to dismiss in Chapter 13 cases shall be heard on Negative Notice (L.B.R. 9061-1 A., 9061-1 D). The debtor shall have twenty (20) days from the date of service of a Motion to dismiss a Chapter 13 case to file a response to such motion. If a response is filed, the movant shall provide ten (10) days notice of hearing. If no response is filed, the motion may be granted without further notice or hearing.
- B. **Amended Plan or other Response to Chapter 13 Trustee's Motion to Dismiss for Failure to Make Plan Payments.** To avoid dismissal on the trustee's motion to dismiss for failure to make plan payments, the debtor must become current in plan payments to the trustee. The debtor may become current by performing one of the following:
1. making payment to the trustee;
 2. entering into a stipulation with the trustee if the motion to dismiss is the first such motion. The stipulation must propose extra monthly payments to cure the missed payments

- within twelve (12) months and the extra payments may not exceed 25% of the regular monthly payment; or
3. filing an amended plan which cures the missed payments. Any amended plan must follow the procedures outlined in these Rules (L.B.R. 3015-4, 3015-5) and
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contain terms that address the missed payments as well as future plan payments. Plan language curing missed payments must be in substantial conformity with the language contained in the Procedures Manual.

- C. **Amended Plans in Response to Chapter 13 Trustee's Motion to Dismiss for Lack of Feasibility.** If the debtor responds to the Chapter 13 trustee's motion to dismiss for lack of feasibility by submitting an amended plan that only differs from the confirmed plan in that it increases the number of future payments to the trustee and does not waive any missed payments, the plan may be confirmed on recommendation of the trustee without the debtor following the procedures of L.B.R. 3015-5.

L.B.R. 1019-1 Conversions.

- A. **Schedules, Statements and Matrix in Converted Case.** No later than five (5) days after entry of the order of conversion, the debtor shall file a new matrix which must include any creditors holding post-petition claims. No later than fifteen (15) days after entry of the order of conversion, the debtor shall file new schedules and statements and, in a case converted to Chapter 13, a Chapter 13 plan. The new schedules shall be filed in lieu of filing the schedule of post-petition liabilities specified in Fed. R. Bankr. P. 1019(5) but must include post-petition liabilities and the date(s) the debts were incurred.
- B. **Reconversion of Certain Chapter 13 Cases.** The Court ordinarily will reconvert a case converted from Chapter 7 to Chapter 13, rather than dismiss the case if the debtor fails to:
 1. file the documents required by L.B.R. 1019-1 A. or as required in the order of conversion (i.e. schedules, statements, matrix or Chapter 13 plan);
 2. attend the § 341 meeting;
 3. propose a plan in good faith; or
 4. commence plan payments.

PART II. ADMINISTRATION AND NOTICE

- L.B.R. 2002-1 Address for Service.** The debtor shall use the last billing address provided by a creditor for the matrix unless the debtor is aware the creditor has specifically directed use of a different address. The address listed on the matrix shall be used for service of all motions, applications, pleadings, orders, and notices of hearing unless an entity has directed use of

another address or as otherwise may be required. Any entity who has filed an entry of appearance, a request for notice, or a proof of claim shall be served at the address on the entry, request, or claim last filed. Unless service on both the party (debtor, creditor, etc.) and the party's attorney is required, service under this Rule on the party shall be made by serving the attorney.

L.B.R. 2002-2 Notice of Commencement of Case and Meeting of Creditors.

- A. **Service and Form of Notice.** The Court will send all notices of commencement of case but is authorized to designate the debtor, trustee, or other party to provide notice where the interests of justice and efficiency are served. The Clerk of Court is authorized to review the form of all such notices to ensure compliance with the Court's procedures and applicable rules. The notices of commencement for jointly administered cases may be combined into a single notice.
- B. **Returned Notices.** All notices of commencement that are undeliverable for insufficient or incorrect address will be returned to the debtor's attorney or to the debtor if pro se. The debtor must attempt to locate correct addresses for any entity whose notice was returned. The debtor must send notice of commencement of the case to such entity at the corrected address and must amend the matrix under L.B.R. 1009-1. The debtor must file a certificate of service listing:
1. the name and corrected address of all entities to whom notice was re-sent; and
 2. the name and address of all parties whose notices were returned and for whom the debtor was unable to locate a corrected address.
- C. **Notice of Commencement and Meeting of Creditors in Chapter 11 Cases.**
In a Chapter 11 case, the United States Trustee shall file a notice of the date, time, and location for the meeting of creditors no later than five (5) business days after receipt of the petition.

L.B.R. 2003-1 Meetings of Creditors.

- A. **Requests to Continue or Reschedule the Meeting of Creditors', Notice of Resetting, and Extension.** If the debtor or attorney for the debtor knows in advance of the § 341 meeting that the debtor or attorney cannot attend the § 341 meeting as scheduled, the debtor's attorney (or the debtor if not represented by an attorney, i.e. pro se) must contact the trustee as far in advance of the meeting as possible to request a continued hearing date. If continued, the debtor's attorney (or the debtor if pro se) must:
1. prepare and file a notice of the continued § 341 meeting;
 2. serve notice of the continued § 341 meeting date on the trustee and on all creditors and parties in interest and, in Chapter 11 cases, on the United States Trustee; and
 3. file a certificate of service with the Court.

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4. In Chapter 13 cases, the debtor's attorney (or the debtor if pro se) must also obtain a continued confirmation hearing date from the courtroom deputy and include the continued confirmation date in the notice mailed to all creditors and parties in interest.

- B. **Continuance of the Meeting of Creditors Announced at Meeting.** The trustee may continue a § 341 meeting from time to time by announcement at the meeting. The trustee shall list the continued date and time on the trustee's § 341 minute report and file the

report with the Court. No further notice of the continued date shall be required except as stated in Rule 2003-1 C. below.

- C. **Failure to Attend the Meeting of Creditors.** If the debtor, without being excused, fails to attend the first scheduled § 341 meeting, the trustee shall announce a continued § 341 meeting date at the scheduled § 341 hearing and shall file a § 341 minute report listing the new meeting date. The trustee shall mail the § 341 minute report or other written notice to the debtor and debtor's attorney. If the debtor fails to appear at the second § 341 meeting without being excused, the trustee shall file a minute report or other written request, asking the case to be dismissed. (See Local Form 3, Chapter 7 trustee's § 341 Minute Report).
- D. **Extension of Deadlines.** If the § 341 meeting is rescheduled pursuant to 2003-1 C. before it is commenced, or the case is dismissed and reinstated before the meeting is commenced, the deadline to object to discharge in a Chapter 7 case and to object to dischargeability in a Chapter 7, 11 or 12 case shall be sixty (60) days after the rescheduled § 341 meeting. The following shall be deemed debtor's request to extend these deadlines:
 1. debtor's failure to appear at the § 341 meeting;
 2. a request to continue the meeting of creditors; and
 3. a motion to reinstate the case
- E. **Required Documents at the Meeting of Creditors.** If the schedules and statements (and plan and plan summary in a Chapter 13 case) are filed within ten (10) days of the scheduled § 341 meeting, the debtor must contact the trustee to verify whether a new § 341 meeting day will be required and, if so, the debtor must send notice of the new meeting date to all creditors and parties as required in L.B.R. 2003-1 A. The debtor must bring the documentation specified in the Procedures Manual to the meeting of creditors.

L.B.R. 2004-1 Motion for Examination under Rule 2004.

- A. **Parties to Confer.** Except for cause shown in the motion, prior to filing any motion for an examination under Fed. R. Bankr. P. 2004, the party seeking the examination must contact the entity to be examined to attempt to reach agreement about the date, time, and place for the examination.

- B. **Consent Rule 2004 Motions.** A motion for examination under Fed. R. Bankr. P. 2004 which certifies that the parties have agreed to the specific arrangements described in the motion will be granted without hearing. The motion must be accompanied by a proposed order which contains the name of the person or entity to be examined, the date, time, and place of the examination, and a description of any documents to be produced if documents for production have been agreed upon.

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- C. **Contested Rule 2004 Motions.** If the parties are unable to agree to the taking of a proposed Rule 2004 examination, the motion seeking the examination must state:
1. the need for the examination and the nature of the dispute;
 2. a proposed time, date, and place of the examination;
 3. a list of any documents to be produced; and
 4. what efforts were made to reach agreement as to the taking of the examination.

The motion must be accompanied by a proposed order granting the motion. The proposed order must specify the name of the person or entity to be examined, the date, time, and place of the examination and any documents requested to be produced. Movant must provide a copy of the 2004 motion and proposed order to the attorney for the person or entity to be examined, or to the person or entity if not represented by an attorney, to the trustee and, in Chapter 11 cases, to the United States Trustee. Any objection to the motion shall be filed no later than five (5) days after service of the motion.

L.B.R. 2014-1 Employment of Professionals.

- A. **General Requirements.** Except for employment of an attorney for the debtor in Chapter 13 cases, an application for employment of attorneys, accountants, appraisers, auctioneers, agents or other professionals pursuant to § 327 or § 1103 shall meet the requirements of Fed. R. Bankr. P. 2014. Such application must disclose any pre-petition retainer arrangement as required in L.B.R. 2016-1 A. Applications for employment must be served on all entities filing a request for notice, other counsel of record, the trustee, the United States Trustee, and any committees. The application will ordinarily be considered without hearing under L.B.R. 9062-1. Any objection to the application must be filed immediately as required by L.B.R. 9062-1.
- B. **Employment of Counsel for Debtors in Chapter 13 Cases.** Procedures governing employment, compensation, and specific duties of counsel for debtors in Chapter 13 cases are covered in L.B.R. 2016-3.

L.B.R. 2014-1

L.B.R. 2015-1 Duty of Debtor in Chapter 12 Case.

- A. **Duties on Commencement of Case.** No later than five (5) days after notification of the appointment of the trustee, the debtor shall tender to the Chapter 12 trustee the sum of five hundred dollars (\$500.00). The trustee may use such funds without prior application for expenses of administering the case, subject to approval of the trustee's final report.
- B. **Duty to Disclose Disposable Income.** On the first anniversary of confirmation of a Chapter 12 plan and not less frequently than annually thereafter, the debtor shall account to the Chapter 12 trustee for all disposable income as defined in § 1225(b)(2). The debtor shall provide the trustee with reasonable information, summaries, and documentation evidencing all receipts and disbursements of money and property over the prior year to enable the trustee to determine whether the debtor has disposable income which should
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be applied to make plan payments under § 1225(b)(1)(B). Failure to comply with this Rule may be cause for dismissal or conversion. Nothing in this Rule precludes the trustee from obtaining an order of Court requiring disclosures more frequently than annually.

L.B.R. 2015-2 Duty of Debtor in Chapter 13 Case.

- A. **Wage Order.** If the debtor in a Chapter 13 case is employed, the Court recommends the debtor file a motion to enter wage order accompanied by a proposed order directed to the debtor's employer. The motion to enter wage order shall be filed simultaneously with the bankruptcy petition.
- B. **Disposable Income.** The debtor in a Chapter 13 case must disclose to the Chapter 13 trustee and to debtor's counsel any material change in debtor's disposable income during the life of the plan.
- C. **Insurance on Motor Vehicles in Chapter 13 Cases.**
1. **Required Coverage.** The debtor in a Chapter 13 case shall maintain insurance on any motor vehicle on which a lien exists to secure a debt. Absent agreement between the debtor and the lienholder, the debtor shall provide insurance as required in the Procedures Manual.
 2. **Proof of Insurance Coverage.** The debtor in a Chapter 13 case must provide the lienholder with proof of three (3) months prepaid insurance providing full coverage from the date of the bankruptcy petition. If the insurance policy lapses during the pendency of the case, the debtor is required to provide new proof coverage, which must include proof of three (3) months prepaid insurance. A copy of the policy or the policy declaration sheet and a copy of a receipt or similar payment statement from an

insurance agent on company letterhead may be used as proof of coverage provided the documents verify the terms of coverage and pre-payment of premiums.

L.B.R. 2015-3 Duty of Debtor in Chapter 11 Case. Refer to the Procedures Manual for information regarding various obligations on the debtor in a Chapter 11 case.

L.B.R. 2016-1 Compensation of Professionals.

- A. **Disclosure of Compensation and Pre-petition Retainers.** Pursuant to § 329 and Fed. R. Bankr. P. 2016(b), an attorney representing a debtor in a case under any chapter shall file with the petition, a statement disclosing compensation paid or agreed to be paid to such counsel for services in contemplation of or in connection with the case. Counsel shall serve the disclosure on the trustee and United States Trustee. In Chapter 13 cases,

counsel shall serve only the Chapter 13 trustee. Until a case is closed, a supplemental fee disclosure statement shall be filed and served as required in this rule no later than fifteen (15) days after any payment or agreement for payment not previously disclosed. Monies received but not subsequently disclosed are subject to disgorgement. Payment of any funds to debtor's counsel and any retainer arrangement must be included in the application to employ under L.B.R. 2014-1 A.

B. **Applications for Compensation.**

1. **Format of Application for Compensation.** Except in certain Chapter 13 cases as governed by L.B.R. 2016-3 A. (concerning the "Flat Fee Option"), all professionals employed under § 327 and § 1103 must file an application for allowance of compensation following the "Guidelines for Compensation" set forth in the Procedures Manual.
2. **Service of Applications for Compensation.** Unless service is limited by L.B.R. 2016-3 A. 2 b. (for specified applications in Chapter 13 cases), by Fed. R. Bankr. P. 2002(a)(6) (for limited-amount applications), by Standing Order in Chapter 11 cases, or otherwise, a professional seeking compensation or reimbursement of expenses shall serve either a copy of the application or a summary of the application following Local Form 4 or Local Form 5 upon the debtor, debtor's attorney, the trustee, and all creditors and parties in interest. In Chapter 13 cases, a complete copy of the application must be served on the Chapter 13 trustee. In all other cases, a complete copy of the application must be served on the Office of the United States Trustee. Local Form 4, "Summary of Application for Compensation" may be used in any case except Chapter 11. Local Form 5, "Notice of Hearing and Summary of Application

L.B.R. 2016-1 cont.

for Compensation in Chapter 11 Case” may be used in Chapter 11 cases. Any summary of the application must explain how copies of the full application may be obtained by others for review without charge.

C. Objections to Applications for Compensation.

1. **In all Cases Except Chapter 11.** In a case under any chapter except Chapter 11, any objection to an application for compensation must be filed and served no later than twenty (20) days after service of the application. A copy of the objection must be served upon the applicant, the debtor, debtor’s attorney, the trustee, and the United States Trustee. In Chapter 13 cases, the United States Trustee need not be served.
 2. **In Chapter 11 Cases.** In Chapter 11 cases, any objection to an application for compensation must be filed and served no later than ten (10) days before hearing. A copy of the objection must be served upon the applicant, the debtor, debtor’s attorney, the trustee, and the United States Trustee.
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D. Hearings on Applications for Compensation.

1. **Negative Notice in all Cases Except Chapter 11.** In a case under any chapter except Chapter 11, hearings on applications for compensation will be held on Negative Notice L.B.R. 9061-1. If an objection is filed, the applicant must set the application for hearing, providing twenty (20) days notice to the debtor, debtor’s attorney, the trustee, the United States Trustee (except in Chapter 13 cases), and any entity filing an objection. The Negative Notice of hearing and summary of application may be combined following Local Form 4, “Summary & Notice of Application for Compensation.”
2. **Chapter 11 Cases.** In Chapter 11 cases, unless otherwise ordered, the applicant shall immediately set the application for the next scheduled fee hearing and provide no less than thirty (30) days notice to all entities served with the application or summary of the application. The notice of hearing and summary of application may be combined following Local Form 5, “Notice of Hearing and Summary of Application for Compensation in Chapter 11 Case.”

L.B.R. 2016-2 Payment of Professional Fees in Chapter 11 Cases.

- A. **General Requirements in Chapter 11 Cases.** The requirements of L.B.R. 2016-1 apply.
- B. **Monthly Bills (Fee Statements) in Chapter 11 Cases.** In Chapter 11 cases, the debtor is authorized to pay 80% of a professional’s fees and 100% of the professional’s expenses on a monthly basis in accordance with this Rule. To receive compensation on a monthly basis prior to allowance on an interim application, the professional must prepare a bill or fee statement in

compliance with the Court's "Guidelines for Compensation" and must submit the statement to the debtor, debtor's attorney, the United States Trustee, counsel for each official committee, counsel for each secured lender, and any other party on the Master Service List L.B.R. 9013-3 C. if such list exists in the case. Any objections to the statement must be submitted to the applicant. If any objections are unresolved after the parties confer, the objecting party must file the objection with the Court and attach a copy of the fee statement to the objection. The Court will determine whether to set the matter for hearing. All monthly payments of fees and expenses are subject to approval, modification or disgorgement on interim application which may not be filed sooner than every 120 days.

- C. **Interim Applications in Chapter 11 Cases.** In Chapter 11 cases, unless otherwise ordered, any professional employed under § 327 and § 1103 may be paid 80% of the professional's fees and 100% of the professional's expenses approved on an interim application filed not sooner than every 120 days. Hearings on interim applications shall be scheduled by the applicant on no less than thirty (30) days notice following the procedures of L.B.R. 2016-1 B.
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L.B.R. 2016-3 Employment, Compensation and Specific Duties of Debtor's Counsel in Chapter 13 Cases.

- A. **Fee Election Requirements.** Attorneys for debtors in Chapter 13 cases may receive compensation for professional services and reimbursement of expenses under either a "Flat Fee Option" or a "Fee Application Option" in accordance with these Rules. Attorneys for debtors in Chapter 13 cases must disclose which fee election option the attorney elects by filing a Fee Election Form using Local Form 6. The Fee Election Form and copies as required in the Procedures Manual must be filed with the attorney's initial Rule 2016(b) disclosure. (see L.B.R. 2016-1 A.)

1. **Flat Fee Option.** Without order of Court, attorneys for debtors in Chapter 13 cases who elect the "Flat Fee Option" shall be permitted to be paid attorney's fees, including expenses, not to exceed the amount established for the "Flat Fee Option" in the Chapter 13 Fee Guidelines found in the Procedures Manual.
2. **Fee Application Option.** Attorneys for debtors in Chapter 13 cases who elect the "Fee Application Option" shall be permitted to be paid, without application, an "initial fee" in an amount not to exceed the amount established as the "initial fee" under the "Fee Application Option" in the Chapter 13 Fee Guidelines. All other fees will be allowed to debtor's attorneys who elect the "Fee Application Option" only on application filed in accordance with L.B.R. 2016-1 B.
 - a. **Service of Applications.** Service shall be in accordance with L.B.R. 2016-1 B. 2.
 - b. **Limited Service of Certain Fee Applications.** Applications seeking additional fees in a cumulative amount of no more than the amount specified in the Chapter 13 Fee Guidelines for "limited fee applications," may be served

L.B.R. 2016-3

upon only the Chapter 13 trustee, the debtor, debtor's attorney, and any entity filing a request for notice. Limited fee applications must certify that all previously authorized additional fees, when added to the amount in the current application, do not exceed the amount specified in the Chapter 13 Fee Guidelines. Applications for additional fees may be made on twenty (20) days Negative Notice L.B.R. 2016-1 D.

- B. **Payment of Chapter 13 Attorney Fees through Plan.** When paid through the plan, unless otherwise specified, the Chapter 13 trustee shall pay debtor's attorney's fees at the rate specified in the Procedures Manual.
- C. **Legal Services of Chapter 13 Debtor's Counsel.** Regardless of the fee option selected, debtor's counsel must provide all legal services necessary for representation of the debtor in the bankruptcy case until conclusion of the case. Such services shall include but are not limited to:
1. Analyzing the debtor's financial situation and advising whether to file a petition in bankruptcy;
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2. Preparing and filing petitions, schedules, statements of affairs, and plans, or amendments thereto;
 3. Representing the debtor at the meeting of creditors and confirmation hearing and any continuances thereof, including responding to objections to confirmation;
 4. Representing the debtor in adversary proceedings and other contested bankruptcy matters, including motions for relief from the automatic stay, to avoid liens, incur debt, buy, sell or refinance; and
 5. Reviewing and objecting to proofs of claims and filing of claims where appropriate.
- When counsel elects the Flat Fee Option, the foregoing services must be performed for the flat fee unless otherwise allowed by the Court. Chapter 13 debtor's counsel may be compensated on an hourly basis upon application as required herein for representation of the debtor in an appeal.

L.B.R. 2016-4 Payment of Chapter 12 Trustee Fees. Trustee fees for non-standing trustees in Chapter 12 cases shall not exceed five percent (5%) of all payments distributed under the plan. This limitation does not apply to requests for reimbursement of expenses. Except for expense reimbursement authorized under L.B.R. 2015-1 A., the trustee shall apply to the Court for allowance of fees and expenses in accordance with the procedures of L.B.R. 2016-1 B. Such fees and expenses may be paid from: (1) funds held by the trustee as a result of the deposit of 5% of all plan payments; (2) the deposit of \$500.00 under L.B.R. 2015-1 A.; or (3) as otherwise ordered. Compensation paid to the trustee shall not be less than \$5.00 per month from any distribution under the plan during the administration of the plan.

L.B.R. 2090-1 Attorney Admission.

A. **General Admission to Practice before the Bankruptcy Court.** The bar of this Court shall consist of any attorney in good standing to practice before the United States District Court for the Eastern District of Missouri. The requirements for attorney admission, standards concerning attorney discipline, law clerks, and law student practice outlined in Rules 12.01-12.05 of the Local Rules of the United States District Court for the Eastern District of Missouri are adopted for this Court. Attorneys are required to read and remain familiar with:

1. these Local Rules;
 2. Local Rules of the United States District Court for the Eastern District of Missouri and the accompanying Rules of Disciplinary Enforcement;
 3. Local Rules of Procedure for the Bankruptcy Appellate Panel and Eighth Circuit Court of Appeals;
 4. Federal Rules of Bankruptcy Procedure;
 5. Federal Rules of Civil Procedure;
 6. Federal Rules of Evidence; and
 7. Federal Rules of Appellate Procedure.
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B. **Admission Pro Hac Vice and Local Counsel.**

1. **Motion.** An attorney who is not a member of this Court but is a member in good standing of the bar of the highest court of any state or the District of Columbia may be permitted to appear and file documents in a case before this Court only when admitted pro hac vice pursuant to applicable rule of the United States District Court for the Eastern District of Missouri. (L.R. 12.01(E)). The Motion shall follow this Court's proposed Local Form (Local Form 7) and shall be accompanied by a proposed order and the registration fee payable to the United States District Court. The Court will consider such motions without hearing. Counsel shall serve the Motion for Admission Pro Hac Vice upon attorneys for the party(ies) involved in the matter for which counsel seeks admission, the trustee, and in Chapter 11 cases, the United States Trustee.
2. **Local Counsel.** The Court encourages visiting attorneys admitted pro hac vice to affiliate with local counsel. Both visiting and local counsel must be listed on all pleadings and must receive service of documents.
3. **Appearance without Pro Hac Vice Admission.** An attorney who is not admitted to this Court may appear without pro hac vice admission for the following purposes: (a) to file a Notice of Appearance and Request for Service; (b) to file a proof of claim; (c) to attend the § 341 meeting of creditors; (d) to file a ballot in a Chapter 11 case.

L.B.R. 2091-1 Withdrawal of Counsel. An attorney of record may withdraw from a case, adversary proceeding, or contested matter only by order of Court after service of a motion to withdraw upon the client, all counsel of record, the trustee, and all entities having filed a request

L.B.R. 2091-1

for notice. In Chapter 11 cases, the attorney must also serve the motion to withdraw upon the United States Trustee and any official committees. The motion must list all matters pending at the time of the motion to withdraw. In Chapter 13 cases, the trustee shall cease payment of attorney's fees to an attorney who has been allowed to withdraw from a case absent an order to the contrary. An attorney entering as counsel for the debtor in a Chapter 13 case may petition not to be bound by the fee election of the original attorney, but absent such a petition, the new attorney shall be bound by the election of the original attorney. The Court will consider motions to withdraw without hearing.

L.B.R. 2092-1 Attorney Changes of Address on Withdrawal or Otherwise. Except as permitted herein, an attorney must file a Notice of Change of Address in each case in which the attorney wishes the change to be reflected. If the change of address applies to every case in which the attorney is involved, a single request may be filed and will be effective for all cases.

L.B.R. 2093-1 Professional Conduct and Obligations of Attorneys.

- A. **Professional Conduct.** The professional conduct of attorneys appearing before this Court shall be governed by the Rules of Professional Conduct adopted by the Supreme Court of Missouri and by the Rules of Disciplinary Enforcement of the United States District Court for the Eastern District of Missouri.
- B. **Duty to Confer.** Every attorney appearing before this Court is required to communicate with opposing counsel in advance of appearing in any proceeding in an attempt to reach agreement on the matter.
- C. **Obligations of Attorneys.**
 - 1. With respect to hearings:
 - a. Attorneys must confer in advance of any hearing pursuant to Rule 2093-1 B.
 - b. Attorneys must appear at all scheduled hearings, unless:
 - i. counsel advises the Court prior to the hearing that the matter has been resolved;
 - ii. at least one attorney appears and reports the matter has been resolved;
 - iii. the Court has continued the matter; or
 - iv. the Court has otherwise excused attendance.
 - 2. Meeting of Creditors. Attorneys for debtors must provide representation for the debtor at the § 341 meeting of creditors.
 - 3. Chapter 13 Cases. In addition to the foregoing, attorneys for Chapter 13 debtors must:
 - a. attend all confirmation hearings unless an order of confirmation has been entered or the trustee advises of intent to consent to confirmation;
 - b. review claims and file necessary objections; and
 - c. defend or proffer all motions, objections or other pleadings (including amended plans) as necessary to provide complete representation to the debtor.

L.B.R. 3002-1

4. Failure of counsel to appear at any hearing or the § 341 meeting of creditors is cause for the Court to reduce attorney's fees or issue other sanctions.
5. Attorneys for debtors must file all required documents, including the attorney fee disclosure statement required by L.B.R. 2016-1 A.

PART III- A. CLAIMS AND DISTRIBUTION TO CREDITORS

L.B.R. 3001-1 Proofs of Claim.

- A. **Form.** A proof of claim shall conform substantially to the Official Form. (Local Form 8). Exhibits, including evidence of a writing and proof of perfection of a security interest, shall not be filed with any proof of claim. Instead, an "Exhibit Summary" (Local Form 9)
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shall be attached to the proof of claim and the exhibit procedures in L.B.R. 9040-1 shall be followed. The Exhibit Summary for a proof of claim concerning a home loan in a Chapter 13 case shall include a breakdown of the amount identified as pre-petition home loan arrearage.

- B. **Service of Proof of Claim.** Immediately upon filing a proof of claim or interest, the claimant shall provide a copy of the proof of claim and its Exhibit Summary to the debtor, debtor's attorney, and to the trustee, if any. The claimant must provide a copy of the proof of claim and a complete copy of all exhibits supporting the claim, not merely the summary, on request of any entity. Claimant must provide such copies no later than seven (7) days after the request and at no charge to the requesting entity. Failure to promptly provide the exhibits when requested may be cause for disallowance of the claim.
- C. **Transferred Claims.** Any assignment or evidence of transfer of a claim filed after a proof of claim has been filed must include:
1. the amount of the claim;
 2. the name of the original creditor (transferor); and
 3. the name and address of the transferee.

L.B.R. 3002-1 Filing Proofs of Claim.

- A. **Chapter 7.** In a Chapter 7 case, no deadline will be set for filing proofs of claim unless the trustee requests the Court issue a notice of assets. The Court shall not docket any claims filed in a Chapter 7 "no asset" case. Upon issuing a deadline for filing claims, the Court shall give notice of the deadline as required in Fed. R. Bankr. P. 3002(c)(5) and shall docket all previously filed claims.
- B. **Chapter 11.**
1. **Claims Bar Date.** In all Chapter 11 cases, on motion without hearing, the Court shall fix a claims bar date. The motion to establish a claims bar date shall include a proposed

notice of claims bar date. Movant shall serve the motion and proposed notice on all entities on the Master Service List (L.B.R. 9013-3 C.) or if no such list exists, on all entities who would be on such a list.

2. **Notice of Bar Date.** In all Chapter 11 cases, unless otherwise provided, the debtor must serve notice of the claims bar date with a blank proof of claim on all creditors and parties in interest. Nothing precludes the debtor from requesting the Court serve notice of the claims bar date as part of the notice of commencement of case.
 3. **Newly Added Creditors.** If the debtor amends its Chapter 11 schedules to add a creditor or to reduce the amount of a claim or reclassify a claim as “contingent” “unliquidated” or “disputed” after having served notice of the claims bar date, then, in addition to the requirements of L.B.R. 1009-1, the debtor shall serve the
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notice of claims bar date upon the affected creditor and shall give written notice that the creditor must file any claim by the bar date or thirty (30) days after the date of the notice, whichever is later.

- C. **Conversions.** A proof of claim filed before conversion of any case is deemed filed in the converted case. Any claimant who did not file a proof of claim in a Chapter 9 or Chapter 11 case because the claim was correctly scheduled must file a proof of claim in the converted case.
- D. **Lease Rejection and Avoidance Action Claims.** Any claim that arises out of the rejection of an executory contract or unexpired lease or from a judgment entered against the creditor pursuant to an action under Chapter 5 of the Bankruptcy Code shall be filed by the claims bar date established in the case or within thirty (30) days after entry of an order approving the rejection or entering judgment, whichever is later.

L.B.R. 3004-1 Filing of Claims by Debtor or Trustee. If the debtor files a proof of claim on behalf of a creditor under Fed. R. Bankr. P. 3004, the debtor shall send a copy of the claim and Exhibit Summary to the trustee. Copies of the exhibits supporting the claim must be provided on request as stated in L.B.R. 3001-1 B.

L.B.R. 3007-1 Objections to Claims.

- A. **In all Cases Except Chapter 13.** Objections to claims in all cases except Chapter 13 shall be filed in substantial conformity with Local Form 10. The entity objecting to a proof of claim shall obtain a hearing date from the appropriate courtroom deputy and provide no less than thirty (30) days notice of the objection and hearing to the claimant, the trustee, and the debtor, and debtor’s attorney, as may be applicable. Any response to such an objection to claim must be filed no later than five (5) days before hearing.

- B. **Chapter 13 Claim Objections.** It is the debtor's duty in a Chapter 13 case to review and object to proofs of claim when necessary. Notwithstanding the foregoing, any party in interest may file an objection to a proof of claim. An objection to a proof of claim in a Chapter 13 case must be served upon: the claimant, the Chapter 13 trustee, the debtor, and debtor's attorney. Objections to claims in Chapter 13 cases will be heard on Negative Notice as provided in L.B.R. 9061-1. The objection must state that any responsive pleading must be filed with the Clerk of the Bankruptcy Court and served on the objecting party no later than twenty (20) days after service of the objection or the objection may be granted without further notice or hearing (Local Form 11). If a response is filed, the objector must set the objection for hearing, giving thirty (30) days notice of hearing to the respondent, the debtor, debtor's attorney, claimant (if applicable) and the Chapter 13 trustee. If no response is timely filed, the objector shall file a certification of no response and follow the procedures in L.B.R. 9061-1 E.
- C. **Omnibus Objections.** The debtor or trustee may object to multiple claims in a single objection provided, for each claim, the objection:
1. describes the claim by claim number, name of claimant, and amount of the claim as filed;
 2. states in detail the basis for the objection;
 3. states the specific relief requested with respect to the claim; and
 4. highlights for each creditor, the specific objection relating to the claim of such creditor.
- Notice of the objection and hearing must be given as stated above in L.B.R. 3007-1 A. or B., as applicable. Omnibus Objections to claims shall be filed in substantial conformity with Local Form 12.

PART III- B. CHAPTER 11, 12 AND 13 PLANS AND PROCEDURES FOR CONFIRMATION

L.B.R. 3015-1 Chapter 12 Plans.

- A. **Payments to Chapter 12 Trustee for Fees.** In any case where there is not a standing Chapter 12 trustee, the Chapter 12 plan shall provide for the trustee to retain an amount equal to five percent (5%) of any and all payments under the plan as a source of funds for payment of the trustee's fees and expenses. The trustee shall hold such funds until the Court allows compensation to the trustee and authorizes disbursement of such funds to the trustee. If excess funds remain after the plan is fully performed and all allowed fees and expenses are paid, the trustee shall distribute such funds in accordance with the plan.
- B. **Designation, Signatures, Service of Chapter 12 Plans and Amended Plans.** Every plan and amended plan shall be dated and signed by the debtor(s). Each amended plan shall be titled "First Amended Plan," "Second Amended Plan," etc., as may be appropriate. The

debtor must serve the plan or amended plan on all creditors and parties in interest together with notice of hearing on confirmation and must file a certificate of service thereof. The notice of hearing on confirmation must state the deadline under L.B.R. 3015-1 C. by which objections to confirmation must be filed.

- C. **Objections to Confirmation of Chapter 12 Plans.** Objections to confirmation of a Chapter 12 plan must be filed with the Court and served upon: the debtor, debtor's attorney, the Chapter 12 trustee, the United States Trustee and any party requesting notice no later than twenty-one (21) days after service of the plan or amended plan.
 - D. **Service of Confirmation Order.** No later than five (5) days after entry of an order confirming a Chapter 12 plan, the debtor shall serve a copy of the confirmation order or notice of confirmation order upon all creditors and parties in interest.
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L.B.R. 3015-2 Chapter 13 Plans - Form and Filing.

- A. **Plan and Summary.** A Chapter 13 plan shall be in substantial conformity with Local Form 13. In addition to the Chapter 13 plan, the debtor shall file a plan summary within the time specified in Fed. R. Bankr. P. 3015(b). The plan summary may be included as a separate section in the plan or may be filed as a separate plan summary document. The time for filing the plan and plan summary may not be extended except for cause shown on notice to the Chapter 13 trustee. The Chapter 13 plan summary must include the following amounts, or an estimation thereof:
 - 1. total dollar amount of each class of claims;
 - 2. percent distribution to unsecured non-priority creditors;
 - 3. percent distribution to unsecured non-priority creditors if the case were filed under Chapter 7; and
 - 4. the dollar amount and the number of monthly payments proposed to be paid over the life of the plan and the sum of such payments. The sum of such payments, together with additional amounts required to be paid into the plan, shall be known as the "Plan Base."
- B. **Designation, Date and Signature on Chapter 13 Plans.** Every plan and amended plan shall be dated and signed by the debtor(s) unless otherwise authorized by the Court. If the original plan is not filed with the petition, the plan must reflect the date and time of the confirmation hearing in the caption. Each amended plan shall be titled "First Amended Plan," "Second Amended Plan," etc., as may be appropriate and must reflect the date and time of the confirmation hearing in the caption.
- C. **Service of Plan and Amended Plans.** The debtor must serve the plan or amended plan on the Chapter 13 trustee, all creditors and parties in interest and must file a certificate of service

thereof in accordance with L.B.R. 9004-1 D. Limited service of an amended plan is authorized only as stated in L.B.R. 3015-5 B. 2.

- D. **Prohibition of Modification by Interlineation.** Absent authority from the Court, no amendments or modifications to a plan or amended plan may be made by interlineation.

L.B.R. 3015-3 Chapter 13 Plans - Plan Contents. The following provisions shall be included in a Chapter 13 plan where applicable:

- A. **Payments on Adjustable Mortgages.** Any Chapter 13 plan directing the trustee to maintain regular monthly, post-petition payments on debtor's residential mortgage or on other claims may provide for the plan payment to the trustee to increase in accordance with any adjustment in the loan agreement or contract. For the trustee to adjust the amount distributed to the creditor, the debtor must file a notice describing the adjusted monthly payment and serve a copy on the Chapter 13 trustee.
- B. **Income Tax Refunds.** All Chapter 13 plans shall provide for the debtor to pay to the trustee any tax refund the debtor receives post-petition. The Plan Base shall be increased by the amount of such refund. The refund may not be used as a substitute for debtor's plan payment except as ordered by the Court. The plan may provide for the debtor to use an income tax refund to pay income taxes owed to any taxing authority for the same period as the refund, provided the net refund is (1) added to the Plan Base, and (2) paid to the trustee for distribution under the plan.
- C. **"Reasonable Time" to Cure Defaults under § 1322(b)(5).** Absent a showing of cause or the written consent of the mortgagee, the "reasonable time" referred to in 11 U.S.C. § 1322(b)(5) shall not be more than thirty-six (36) months in the case of a debtor who has not been a debtor in a Chapter 13 bankruptcy case pending during the twelve (12) months preceding the filing of the current bankruptcy petition. For all other cases, the "reasonable time" referred to in 11 U.S.C. § 1322(b)(5) shall be thirty (30) months. Consent of the mortgagee to any other time period must be in writing, filed with the Court, and served on the Chapter 13 trustee prior to hearing on confirmation of the plan.
- D. **Turnover of Collateral.** When a Chapter 13 plan states the debtor will surrender collateral to a creditor, the debtor must release the collateral to the creditor within forty-five (45) days of the date of the filing of the petition. To surrender collateral, the debtor must make the collateral available to the creditor during reasonable hours and at a reasonable location. The debtor and creditor must cooperate in surrendering and recovering collateral.

- E. **Interest on Secured Claims.** All Chapter 13 plans must provide for payment of interest on secured claims paid through the plan and must specify the interest rate to be applied. Absent evidence to the contrary, the applicable interest rate shall be the rate posted and published by the Clerk of Court in the Procedures Manual as prescribed herein. The interest rate in effect at the time of the filing of the petition shall remain in effect throughout the term of the case. The applicable interest rate shall be determined by the Clerk of the Court semi-annually as follows:
1. **January 1 - June 30:** For petitions filed between January 1 and June 30 of each year, the interest rate shall be the 3-year Treasury note rate as of the week which includes December 1 of the previous year, plus 3% (three percentage points). This rate shall be posted by the Clerk on December 10 or the first business day thereafter.
 2. **July 1 - December 31:** For petitions filed between July 1 and December 31 of each year, the interest rate shall be the 3-year Treasury note rate as of the week which includes June 1 of the current year, plus 3% (three percentage points). This rate shall be posted by the Clerk on June 10 or the first business day thereafter.
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- F. **Minimum Distribution to Unsecured Creditors.** The plan shall state a minimum sum guaranteed for distribution to holders of non-priority, unsecured claims. Such minimum shall be 10%, 100%, or a fixed dollar amount. If a fixed dollar amount is stated, the plan must provide that holders of non-priority, unsecured claims will receive no less than 10% of their claims. Such amount shall constitute a minimum distribution only.
- G. **Payments Through the Plan.** The plan shall provide for all claims to be paid by the trustee through the plan except as noted herein or as permitted by the Court. The following may be paid outside of the plan:
1. Claims on the home in which the debtor resides, if the claim is for:
 - a. post-petition mortgage payments;
 - b. post-petition mobile home payments;
 - c. post-petition rent payments; and
 2. Claims for child support arrearage if the arrearage was being paid pursuant to a pre-petition agreement and the child support creditor consents to continuation of the payment arrangement post-petition. Consent of the creditor must be in writing, filed with the Court and served upon the Chapter 13 trustee prior to hearing on confirmation of the plan.
- H. **Monthly Payments.** Unless otherwise permitted by the Court, the plan must provide for the debtor to make regular monthly payments to the trustee. Such monthly payments shall not be

less than the amount specified in the Procedures Manual as the “minimum monthly Chapter 13 plan payment.”

- I. **Child Support Arrearage.** The plan shall provide for child support arrearage to be paid in full in equal, monthly payments unless the creditor agrees to other treatment, or as provided in L.B.R. 3015-3 G. 2.
- J. **Treatment of Secured Vehicle Claims.** Absent evidence to the contrary, the Court presumes automobiles will depreciate at a rate of 2% of the vehicle’s value per annum. The plan must compensate secured creditors for this rate of depreciation. Absent evidence to the contrary, the value of vehicles for this purpose shall be determined using the Court’s Vehicle Valuation Policy set forth in the Procedures Manual.
- K. **Treatment of Claims.** Any Chapter 13 plan stating an amount owed to a creditor shall be considered estimated and is not binding upon the creditor. An allowed proof of claim shall govern the amount of a claim, valuation of collateral, and classification of the claim. The confirmed Chapter 13 plan shall control the treatment of a claim, including, the numerical rate of interest to be paid when appropriate to pay interest and whether a claim is to be paid through the plan or outside the plan by a party other than the trustee.

L.B.R. 3015-4 Chapter 13 Plans - Confirmation Procedures.

- A. **Original Confirmation Hearing.** The Court will schedule the original confirmation hearing and will provide notice thereof on the notice of commencement of case. If a plan is not confirmed at the original confirmation hearing, the case will be continued on the Court’s confirmation calendar until the case is dismissed or a plan is confirmed.
- B. **Attendance at Confirmation Hearings.** The debtor's attorney and any party objecting to confirmation shall attend all confirmation hearings in the case unless there are no objections or the objections have been settled or withdrawn. Failure of such party to appear at the confirmation hearing may result in the denial of either the objection or confirmation.
- C. **Trustee’s Certification Concerning Confirmation.** The Chapter 13 trustee shall file a certification of confirmable plan and confirmation order, provided:
 - 1. no objections to confirmation have been filed, or all objections have been resolved;
 - 2. all payments due the trustee from the debtor are “substantially current” under L.B.R. 3015-4 D.; and
 - 3. the provisions of 11 U.S.C. § 1325 have been met.On receipt of the trustee’s certification of confirmable plan, the Court may confirm the plan and remove the case from the confirmation calendar.

- D. **“Substantially Current.”** “Substantially current” means that the debtor has commenced payments by wage withholding and is not more than one payment in arrears. If the debtor is making payments to the trustee directly (not by wage withholding), then “substantially current” means the debtor has commenced payments and payments may be no more than two weeks late. If the debtor is not “substantially current” in payments to the trustee at the confirmation hearing, the Court may dismiss the case.
- E. **Trustee to Provide Order.** Whether a case is confirmed at or before the confirmation hearing, the trustee shall provide a confirmation order. The Court shall serve the order upon the debtor, debtor’s attorney, and the Chapter 13 trustee.
- F. **Objections to Original Plan.** Objections to confirmation of the debtor’s original plan must be filed with the Clerk of the Court and served upon the debtor, debtor’s attorney, and the Chapter 13 trustee no later than twenty-one (21) days after the date on which the § 341 creditors meeting is concluded. An objection to a plan shall continue until the objection is overruled or withdrawn, or an amended plan is filed. Failure to appear or prosecute an objection at the confirmation hearing shall be a basis for overruling the objection.
- G. **Pre-Confirmation Amended Plans in Response to Objections to Original Plan.** Amended plans must be filed with effort to expedite the confirmation process. Failure to promptly file an amended plan may result in dismissal of the case. The debtor must serve the amended plan on all creditors and parties in interest. The debtor shall contact the

courtroom deputy to have the amended plan scheduled for hearing on the next confirmation calendar that is not sooner than twenty-one (21) days after service of the amended plan and shall send notice thereof to all creditors and parties in interest. The date and time of the confirmation hearing of the amended plan must be stated in the caption of the amended plan. The Court may waive the twenty-one (21) day objection period in the interest of judicial economy.

- H. **Objections to Pre-Confirmation Amended Plans.** Objections to confirmation of an amended plan shall be filed and served no later than twenty-one (21) days after service of the amended plan.

L.B.R. 3015-5 Chapter 13 Plans - Post-Confirmation Amendments and Modifications.

- A. **Motion to Amend a Confirmed Plan.** A debtor who seeks to amend a confirmed plan shall do so by motion. Such a motion must include a brief but specific statement of the reason for the amendment and must identify all changes to the plan terms. In conjunction with the motion to amend, the debtor shall file an amended plan and either an amended budget or a statement that

there has been no change in the debtor's income and expenses. Such statement or amended budget shall be signed by the debtor.

B. Service of Motion to Amend a Confirmed Plan.

1. **Generally.** The debtor shall serve a copy of the motion to amend, the amended plan and either an amended budget or statement that there has been no change in income or expenses on the Chapter 13 trustee and on all creditors and parties in interest. The debtor shall contact the courtroom deputy to have the motion to amend and the amended plan scheduled for hearing on the next confirmation calendar that is not sooner than twenty-one (21) days after service of the motion to amend. The debtor shall send notice of the confirmation hearing to all parties served with the motion and amended plan. The date and time of the confirmation hearing must be stated in the caption of the amended plan.
2. **Limited Service.** Unless otherwise directed, service of the motion to amend a confirmed plan, the amended plan and either an amended budget or statement that there has been no change in income or expenses may be limited to the Chapter 13 trustee if the proposed amended plan meets either of the following criteria:
 - a. the proposed plan only changes the terms of the confirmed plan by increasing the amount of the plan payment or planned duration; or
 - b. the proposed plan:
 - i. changes twelve (12) or fewer monthly payments;
 - ii. lowers the monthly plan payment by less than twenty-five percent of the existing plan payment;
 - iii. is the first amendment to the debtor's first confirmed plan; and
 - iv. does not waive any missed plan payments.

C. Objections to Motion to Amend a Confirmed Plan. Objections to the debtor's motion to amend a confirmed plan and to the proposed amended plan shall be filed and served no later than twenty-one (21) days after service of the motion to amend, the amended plan and an amended budget or statement that there has been no change in income or expenses. The Court may waive the twenty-one (21) day objection period in the interest of judicial economy.

D. Confirmation and Trustee's Certification. The Chapter 13 trustee shall file a certification of confirmable plan and confirmation order with respect to an amended plan, provided:

1. no objections to confirmation have been filed, or all objections have been resolved;
2. all payments due the trustee from the debtor under the amended plan are substantially current; and
3. the provisions of 11 U.S.C. § 1325 have been met.

L.B.R. 3017-1 Disclosure Statement in Chapter 11 Cases.

- A. **Form and Service of Disclosure Statement.** Every Chapter 11 disclosure statement filed with the Court shall be titled to identify whether it is the original disclosure statement or an amendment thereof (e.g. “First Amended Disclosure Statement,” “Second Amended Disclosure Statement,” etc.). The proponent of the disclosure statement shall serve a copy of the disclosure statement without charge upon: (1) all parties on the Master Service List (L.B.R. 9013-3 C.) or if no such list exists, all parties who would be on such a list; (2) the Securities and Exchange Commission when the SEC is a party in the case; and (3) any entity making a written request for a copy.
- B. **Notice of Chapter 11 Disclosure Statement and Hearing Thereon.** The proponent of the Chapter 11 plan and disclosure statement shall provide notice of hearing on the disclosure statement and notice of the time for filing objection as required by Fed. R. Bankr. P. 2002(b)(1), 2002(d)(5), and 3017, using a form in substantial conformity with Local Form 14 or as otherwise approved by the Court. The notice of hearing on the disclosure statement must explain that on written request, a copy of the disclosure statement may be obtained from the plan proponent without charge.
- C. **Objection to Disclosure Statement.** Unless otherwise ordered by the Court, any entity with an objection to the disclosure statement shall file and serve its objection no later than five (5) days before the hearing on the disclosure statement. The objection shall identify those portions of the disclosure statement which the objecting party asserts are incomplete, misleading, erroneous, or are otherwise the basis for the objection. Where appropriate, the objector shall propose acceptable language requested to be included in the disclosure statement. The objector shall serve its objection on the proponent of the disclosure statement and on the parties set forth in L.B.R. 3017-1 A. The parties shall confer as required by L.B.R. 2093-1 B. in an attempt to resolve any objections to the disclosure statement.
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- D. **Notice of Approval of Disclosure Statement and Notice of Confirmation Hearing.** Upon approval of the disclosure statement, the plan proponent shall provide the notice required pursuant to Fed. R. Bankr. P. 2002(b)(2), 2002(d)(6), and 2002(d)(7), using a form in substantial conformity with Local Form 15, or as otherwise approved by the Court, and shall serve all creditors and parties in interest with those documents required by Fed. R. Bankr. P. 3017(d). The proponent’s notice of hearing on confirmation shall include the time within which objections to confirmation must be served under L.B.R. 3020-1 C.

L.B.R. 3020-1 Confirmation of Chapter 11 Plan.

- A. **Summary of the Ballots Cast.** At least three (3) days prior to the confirmation hearing in a Chapter 11 case, the plan proponent shall file a written summary of the ballots cast and shall serve a copy of the summary upon all entities on the Master Service List

(L.B.R. 9013-3 C.) or if no such list exists, upon all parties who would be on such a list, and upon any party who has filed an objection to the plan. The summary shall contain a separate listing of acceptances and rejections and shall include the following information by class:

1. For each creditor filing an acceptance or rejection:
 - a. the name of the creditor;
 - b. the dollar amount of each claim; and
 - c. whether the debtor has objected to the claim;
2. the total dollar amount and number of allowed claims voted;
3. the percentage dollar amount of acceptances;
4. the percentage number of acceptances; and
5. a description of all ballots not counted and the reason therefor.

B. Preservation of Ballots. The attorney for the plan proponent (or any other entity ordered by the Court) shall keep and preserve all original ballots which are cast by the holders of claims or interests for two (2) years after the plan is confirmed. Unless otherwise directed, copies of the original ballots shall be made available upon written request to the attorney for the plan proponent or other entity ordered to keep the ballots. The original ballots shall be brought to the confirmation hearing and made available to any party at the hearing.

C. Objections to Confirmation. Unless otherwise ordered by the Court, objections to confirmation of a plan shall be filed and served at least five (5) days before the confirmation hearing. Objections to confirmation of the plan shall be served upon the plan proponent, all entities on the Master Service List, or those who would be on such a list, the trustee, if any, and any entity making a written request.

D. Confirmation of a Plan. The plan shall be titled to identify whether it is the original plan or an amended plan (e.g. "First Amended Plan," "Second Amended Plan," etc.) and must contain all modifications and amendments as presented for confirmation. Unless otherwise ordered for good cause shown, the plan proponent shall serve the order of confirmation upon all creditors and parties in interest no later than five (5) days after entry of the order confirming the plan. The order of confirmation shall be in substantial conformity with Local Form 16. On request and order of the Court, the plan proponent may be required to serve the confirmed plan with the order of confirmation on all creditors and parties in interest. On written request of any entity, the plan proponent shall provide a copy of the confirmed plan without charge.

L.B.R. 3021-1 Distribution on Claims in Chapter 13 Cases.

A. Distribution Following Relief from the Automatic Stay.

1. **Certain Lienholders Not Entitled to Share in Subsequent Distributions .**
In a Chapter 13 case, if a creditor obtains an order for relief from the automatic stay of § 362 to foreclose on collateral, the Chapter 13 trustee shall cease distribution on the claim of such creditor and on the claims of all other creditors with voluntary liens on the collateral until such time as:
 - a. an accounting of the proceeds of the collateral has been filed with the Court and a copy of the accounting has been served on the trustee; and
 - b. the creditor files an amended claim, stating the amount of any unsecured balance to be paid by the trustee through the plan.
 2. **Option to Receive Continued Distributions .** A creditor whose claim was secured by collateral on which relief from the automatic stay has been granted may continue receiving disbursements under the confirmed Chapter 13 plan by obtaining an order for continued payment.
- B. **Distribution on Claims following Relief from the Automatic Stay against Co-Debtor.** In a Chapter 13 case, where the debtor's plan provides for payment to a creditor on a co-signed debt, the trustee shall continue distribution notwithstanding relief from the automatic stay to pursue the co-debtor. The creditor who obtains relief from the automatic stay to pursue a co-debtor must account to the Court, the debtor, and the Chapter 13 trustee for all funds recovered from the co-debtor.
- C. **Distribution on Adjustable Rate Mortgages and Other Adjustable Claims .** If a confirmed Chapter 13 plan directs the trustee to maintain regular monthly payments on any claim and those regular monthly payments change during the life of the plan due to the terms of the underlying agreement, the trustee shall begin making the amended monthly payment to the affected creditor upon receipt of written notice as required by L.B.R. 3015-3 A. without the need for an amended plan or notice to other creditors.

L.B.R. 3022-1 Final Decree in Chapter 11 Cases.

- A. **Application for Final Decree.** No later than three (3) months after entry of the confirmation order in a Chapter 11 case, the plan proponent shall file an application for a final decree or show cause why the final decree should not be entered. At or before the show cause hearing, the plan proponent shall file a status report as required herein. Thereafter, commencing with the seventh month after confirmation, the plan proponent must file a status report every four (4) months until the entry of the final decree. The application for final decree and any status report must include information concerning:
1. the date the order confirming the plan became final;
 2. whether deposits required by the plan have been made;
 3. whether the property proposed by the plan to be transferred has been transferred;
 4. whether the debtor or successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan;
 5. whether payments under the plan have commenced;
 6. a breakdown of the disbursements, as applicable, from the inception of the case for fees and expenses of debtor's counsel and other professionals;
 7. the percentage dividend paid and/or to be paid, or an explanation of why the dividend percentage is not yet determinable;
 8. the status of all pending motions, contested matters, objections to claims, and adversary proceedings;
 9. a list of all motions, contested matters, objections to claims, and adversary proceedings which are to be filed;
 10. whether all fees due the United States Trustee have been paid; and
 11. other facts as may be necessary to enable the Court to determine whether entry of the final decree is appropriate. The application for final decree must state that the estate has been fully administered.
- B. **Service of Application for Final Decree and Objections Thereto.** The plan proponent must serve the application for a final decree or the status report upon the Master Service List (L.B.R. 9013-3 C.) or if no such list exists, upon those who would be on such list, and upon all entities that have requested notice in the case. The application for final decree shall include a notice that any objections to the application must be filed with the Court no later than thirty (30) days after service of the application. If no objections are filed, the Court may issue a final decree and close the case. If objections are filed, the plan proponent must contact the courtroom deputy to set the application for final decree for hearing and must provide notice of the hearing to all parties who filed an objection and to the United States Trustee. All objections to the application for final decree must be served upon the debtor, the plan proponent, and the United States Trustee.

PART IV. THE DEBTOR, DUTIES AND BENEFITS

L.B.R. 4001-1 Relief from the Automatic Stay.

- A. **Service of Motions for Relief from the Automatic Stay.** The movant shall serve any motion for relief from the automatic stay and notice of hearing upon: the debtor, debtor's attorney, the trustee, and any entity actually known by movant to have a mortgage on or consensual interest in the collateral. In Chapter 11 cases, unless otherwise ordered, the movant shall also serve the motion and notice upon the Master Service List (L.B.R. 9013-3 C.) or if no such list exists, upon those who would be on such list, and on any entity who may be affected by the motion.
- B. **Hearings on Motions for Relief from the Automatic Stay.** Motions for relief from the automatic stay shall ordinarily be set giving a minimum of twenty (20) days notice. If Movant consents to having the motion set on a calendar date that is greater than thirty (30) days after the filing of the motion, the caption of the motion must state: "MOVANT WAIVES 30 DAY HEARING."
- C. **Content of Motion for Relief from the Automatic Stay.**
1. **Motion for Relief from the Automatic Stay to Foreclose on Collateral.**
 - a. **General Provisions.** In a case filed under any chapter in which movant is seeking to foreclose on collateral, the motion shall list all entities actually known by movant to have an interest in the collateral and shall recite the legal and factual basis on which relief is sought including:
 - i. the basis for the debt;
 - ii. the balance of the indebtedness on the petition date or otherwise; and
 - iii. the date and manner of perfection, including book and page number, certificate of title, or UCC-1 recording.Documentation in support of a motion for relief shall be summarized using an Exhibit Summary following the procedures under L.B.R. 9040-1 A. unless otherwise permitted in this Rule. On request, movant shall provide copies of all exhibits in their entirety as set forth in L.B.R. 9040-1 C.
 - b. **Chapter 13 Cases.** In a Chapter 13 case in which movant is seeking to foreclose on collateral, the following procedures apply:
 - i. **Balance due.** The motion must include a statement of the amount due including a breakdown of the following categories:
 - (1) unpaid principal;
 - (2) accrued interest from a specific date to a specific date;
 - (3) late charges from a specific date to a specific date;
 - (4) attorney's fees;
 - (5) advances for taxes, insurance and the like; and
 - (6) any other charges.

- ii. **Exhibits.** An Exhibit Summary prescribed by L.B.R. 9040-1 A. shall **not** be used with respect to motions for relief from the automatic stay to foreclose on collateral in Chapter 13 cases. Instead, select exhibits or page(s) may be attached to the motion provided the exhibit page(s) contain evidence of perfection. It is sufficient for movant to attach only the first page of a deed of trust, certificate of title, or UCC-1 form showing the recorder's stamp and verifying lien perfection. On request, movant shall provide copies of all exhibits in their entirety as set forth in L.B.R. 9040-1 C.
 - iii. **Order Granting Relief from Automatic Stay - Effect on Secured Claims.** All orders granting relief from the automatic stay in a Chapter 13 case shall contain the following language:

The Chapter 13 Trustee is directed to discontinue payment on all claims secured by the property against which relief from the automatic stay is granted in this Order. The Trustee is directed to resume payment on such claims on notification pursuant to L.B.R. 3021-1 A.
2. **Motions for Relief from the Automatic Stay for All Other Purposes.** In a case under any chapter of the Bankruptcy Code, a motion for relief from the automatic stay for any purpose other than to foreclose on collateral shall include all legal and factual allegations supporting the relief requested and shall use the Exhibit Summary procedures of L.B.R. 9040-1.
- D. **Responses to Motions for Relief from the Automatic Stay.** Any response to a motion for relief from the automatic stay must be filed no later than five (5) days before the hearing date set for the motion for relief. The response should specifically admit or deny the allegations in each paragraph. **A general denial or similar response is insufficient.** When a response asserts adequate protection, the response must state how movant will be adequately protected if the automatic stay remains in effect. The parties shall exchange and file exhibits following the procedures in L.B.R. 9040-1 C.
- E. **Duty to Confer.** As required by L.B.R. 2093-1 B., in advance of hearing, attorneys for the parties involved in a motion for relief shall confer with respect to the issues raised by the motion to determine whether a consensual order may be entered or whether a stipulation may be reached concerning relevant facts.
- F. **Consent Motions for Relief from the Automatic Stay.** Pursuant to L.B.R. 9013-1 E., a consent motion for relief from the automatic stay need not be set for hearing and may be ruled upon without hearing. The Clerk of Court is authorized to waive the filing fee for a

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motion for relief from the automatic stay if the motion is filed with the written consent and signature of the trustee and all respondents.

- G. **Orders on Motions for Relief from the Automatic Stay.** Proposed Orders on any motion for relief from the automatic stay must follow the format in L.B.R. 9050-1 and must specifically describe the property (collateral) that is the subject of relief. “So Ordered” provisions in L.B.R. 9050-1 E. may not be used with motions for relief from the automatic stay. In Chapter 13 cases, the order must include the language set forth in L.B.R. 4001-1 C. iii. above.
- H. **Emergency and Ex Parte Relief from the Automatic Stay.** Procedures for emergency and ex parte relief from the automatic shall be as stated in L.B.R. 9013-2 C. and D., respectively.

L.B.R. 4003-1 Scheduling Exemptions. Each claimed exemption on Schedule C must include:

1. a description of the property claimed exempt;
2. citation to the law or authority providing a basis for the exemption;
3. the dollar value of the claimed exemption; and
4. the current market value of the property.

L.B.R. 4003-2 Motion to Avoid Liens.

- A. **Content.** All motions to avoid liens must contain:

1. a specific description of the property subject to the lien avoidance action; and
2. a description of the documents giving rise to the lien.

A specific description of the property is not necessary if the debtor does not have a listing of the property and the debtor can demonstrate an attempt to obtain that information in writing from the creditor at least fourteen (14) days prior to filing the motion. The motion must be served on the trustee and the creditor whose lien is sought to be avoided.

- B. **Responses and Hearings.** Motions to avoid liens may be set for hearing following the Negative Notice procedures of L.B.R. 9061-1. Any response must be filed no later than twenty (20) days after service of the motion pursuant to L.B.R. 9061-1 B. If a response is filed, the debtor must set the motion for hearing giving no less than ten (10) days notice of hearing (L.B.R. 9061-1 D. 1).

L.B.R. 4004-1 Discharge.

- A. **Discharge in Chapter 12 Cases.** As soon as practicable after completion by the debtor of all payments under the plan, the debtor shall file a motion requesting a discharge. The debtor shall serve the motion on the trustee and all creditors and parties in interest.

- B. **Discharge in Chapter 7, 11 and 13 Cases.** In Chapter 13 and 7 cases, provided a discharge is appropriate, the Court will issue and serve the discharge order without the debtor filing a motion for discharge. In Chapter 11 cases, the discharge provision shall be as specified in the confirmed Chapter 11 plan.

PART V. COURT AND CLERK'S OFFICE OPERATIONS

L.B.R. 5005-1 Filing and Transmittal of Papers.

- A. **Location, Place and Manner of Filing.** All documents offered for filing in a case in the United States Bankruptcy Court for the Eastern District of Missouri (Eastern, Northern or Southeastern Division) shall be submitted to the Clerk's Office in St. Louis for filing. Filing by facsimile is prohibited.
- B. **Copies.** The party filing an original document shall furnish the Clerk with additional copies in the quantities specified in the Procedures Manual.
- C. **Documents Declined for Filing.** The Clerk shall decline to accept for filing any pleading, petition, or document tendered without the required fees or signatures. The Clerk shall mark the date and time tendered on the original document and shall return the original document to the filer with a written notice of return. The Clerk shall retain a photocopy of the original document bearing the date and time of its tender. In the case of a petition, the Court may promptly dismiss the case if the petition fails to comply with L.B.R. 1002-1. The proponent of any petition or other document declined for filing may, upon motion for good cause, request the Court treat the petition or other document as filed on the date originally tendered to the Court.
- D. **Electronic Filing.** Petitions and other documents must be filed through the use of electronic means in accordance with Administrative Procedures for Electronic Case Filing established and published by the Court.

L.B.R. 5009-1 Closing Procedures.

- A. **Closing Procedures in Chapter 12 Cases.** The Chapter 12 trustee shall file the trustee's final report and final account in substantial conformity with Local Form 17 and submit a copy to the United States Trustee. The Chapter 12 trustee shall send notice of filing the final report or a copy of the final report to the debtor, debtor's attorney, and all creditors and parties in interest with notice that any objections to the report must be filed with the Court no later than thirty (30) days after service of the final report. The final report shall state that the estate has been fully administered. If no objections are filed, the Court will issue a final decree and close the case.

Any objections to the final report must be served upon the Chapter 12 trustee, the debtor, debtor's attorney, and the United States Trustee.

If objections are filed, the Chapter 12 trustee shall contact the courtroom deputy to set the final report for hearing and serve notice of hearing on all parties filing an objection, the debtor, debtor's attorney, and the United States Trustee.

- B. **Closing Procedures in Chapter 7 Cases.** In a Chapter 7 asset case, the trustee shall cause to be filed the trustee's final report and proposed distribution and shall send notice of the filing and a summary of the final report or a copy of the final report to the debtor, debtor's attorney, and all creditors and parties in interest (as may be required under Fed. R. Bankr. P. 2002(f)(8)) with notice that any objections to the report must be filed with the Court no later than thirty (30) days after service. Any objections to the final report must be served upon the trustee, the debtor, debtor's attorney, and the United States Trustee. If objections are filed, the trustee shall contact the courtroom deputy to set the final report for hearing and serve notice of hearing on all parties filing an objection, the debtor, debtor's attorney, and the United States Trustee. If no objections to the final report are filed, or on resolution of any objections, the trustee shall submit an order approving the final report and proposed distribution. After distribution, the trustee shall cause to be filed a post-distribution report and certify full administration of the estate. In a Chapter 7 no-asset case, the trustee shall file a report of no distribution and certify full administration of the estate. Following notice of full administration, the Court shall issue a final decree and close the case.
- C. **Closing Procedures in Chapter 13 Cases.** The Chapter 13 trustee shall file the trustee's final report and final account and shall send a copy of the final report to the debtor and debtor's attorney with notice that any objections to the report must be filed with the Court no later than thirty (30) days after service of the report. The final report shall state that the estate has been fully administered. If no objections are filed, the Court will issue a final decree and close the case. Any objections to the final report must be served upon the Chapter 13 trustee, the debtor, and debtor's attorney. If objections are filed, the Chapter 13 trustee shall contact the courtroom deputy to set the Final Report for hearing and serve notice of hearing on all parties filing an objection, the debtor, and debtor's attorney.
- D. **Closing Procedures in Chapter 11 Cases.** See L.B.R. 3022-1.

L.B.R. 5011-1 Withdrawal of Reference.

- A. **Time and Manner.** Absent leave of Court, a request to withdraw the reference of a case or proceeding, in whole or in part, other than a sua sponte request by the judge shall be by motion, filed and served no later than ten (10) days after service of the last pleading directed to such issue.

- B. **Response.** No later than ten (10) days after service of the motion to withdraw the reference, any other party may file and serve a response to such motion.

PART VI. COLLECTION AND LIQUIDATION OF THE ESTATE

L.B.R. 6007-1 Abandonment of Assets at the § 341 Meeting. At the § 341 meeting of the creditors, the trustee may announce the abandonment of specific property of the estate that is burdensome or of inconsequential value. The trustee shall file a list of such property in the trustee's § 341 meeting minute report. The trustee's report shall constitute notice of abandonment of all assets referenced therein. Objections to the proposed abandonment shall be filed with the Clerk of Court no later than fifteen (15) days after filing of the trustee's report. The objecting party shall promptly provide a copy of the objection to the trustee, the debtor, and debtor's attorney. The objecting party shall set the objection for hearing and shall give notice thereof to the trustee, the debtor, and debtor's attorney.

PART VII. ADVERSARY PROCEEDINGS AND JUDGMENTS

L.B.R. 7003-1 Commencement of Adversary Proceedings.

- A. **Cover Sheet.** An "Adversary Proceeding Cover Sheet" (Local Form 18) must accompany all adversary complaints.
- B. **Filing Fee.** Payment of the filing fee as stated in the Procedures Manual is required to initiate an adversary proceeding.
- C. **Caption.** The caption of all pleadings filed in an adversary must follow the specifications in L.B.R. 9004-1 A.

L.B.R. 7004-1 Summons.

- A. **Issuance.** At the time an adversary proceeding is filed, the plaintiff must submit a completed summons (Local Form 19) for each defendant plus the required number of copies as stated in the Procedures Manual. The Court will determine whether to set the adversary proceeding for trial or pre-trial and will return the summons to the plaintiff for service. The date for trial or pre-trial will appear on the summons.
- B. **Service of Summons.** The plaintiff must serve the summons as required by Fed. R. Bankr. P. 7004(a)-7004(h). The plaintiff must file a certificate of service of the summons at least ten (10)

days before the hearing date on the summons. The reverse side of the summons contains the certificate of service.

L.B.R. 7016-1 Pre-trial Procedures.

- A. **Duty to Exchange Exhibits and Witness Lists.** Parties to an adversary proceeding shall cooperate with one another and shall voluntarily exchange exhibits and witness lists no later than ten (10) days prior to trial, or as set out in a pre-trial or trial order. The plaintiff shall mark exhibits with Arabic numerals; the defendant shall use letters. Exhibits must be indexed following the format of the Court's Exhibit Index (Local Form 20). Three (3) days prior to trial, each party shall deliver to the Court sufficient copies of the exhibits in binders to provide a set for the Court and the law clerk. Parties shall bring additional binders for the witness and opposing counsel on the day of trial.
- B. **Objections to Exhibits.** Objections to the authenticity or genuineness of any document must be made in writing no later than three (3) days prior to trial. Failure to object to the authenticity or genuineness of a document does not waive any right to object on the basis of relevance at trial.
- C. **Duty to Confer and Settlement Conference.** Unless a pre-trial order directs otherwise, the parties to an adversary proceeding shall discuss the possibilities of settlement no later than two (2) weeks after an answer or other response is filed. The plaintiff shall promptly file and serve a report advising that the parties conducted such a settlement conference and whether the case is settled. (Local Form 21).

L.B.R. 7026-1 Discovery.

- A. **Required Disclosures.** Adherence to L.B.R. 7016-1 A. constitutes compliance with Fed. R. Civ. P. 26(a)(1) and (2), and E.D.Mo.L.R 26-3.01.
- B. **Filing of Discovery Materials.** Local Rule 26–3.02 of the United States District Court for the Eastern District of Missouri shall apply as modified herein. Discovery requests and responses and any disclosures required under Fed. R. Civ. P. 26, 30, 31, 33, 34, 35 and 36 shall not be filed with the Court except as exhibits to a motion or memorandum and then only as permitted by L.B.R. 9040-1 and L.B.R. 7056-1. At the time of service of discovery requests or responses, the party issuing the discovery or responding to it shall file a certificate of service advising that discovery has been served or answered. No deposition transcript shall be filed

L.B.R. 7016-1

until admitted into evidence at trial. If deposition testimony is needed to support any pleading, a copy of the relevant excerpts shall be attached to the motion or pleading.

- C. **Deadline for Discovery.** In all cases in which a trial (not pre-trial) summons is issued, responses to discovery must be served no later than twenty (20) days after service of the discovery request unless the responding party, after consultation with the party seeking the discovery, obtains additional time to respond.

L.B.R. 7055-1 Default Judgment.

- A. **Motion for Entry of Default.** Any motion for default judgment must be accompanied by (1) the Clerk's entry of default using Bankruptcy Procedural Form 260B, and (2) an affidavit in support of the motion. The affidavit must contain the following:
1. date of issuance of the summons;
 2. statement of whether the Court fixed a deadline for filing an answer or motion, or whether the 30 or 35 day limit applies;
 3. date of service of the complaint;
 4. date of filing of affidavit or return of service;
 5. statement that the defendant is not in the military service (as required by the Soldier's and Sailor's Civil Relief Act, 50 U.S.C. App. § 520);
 6. statement that the defendant is not an infant or incompetent (as required by Fed. R. Civ. P. 55(b)(1)); and
 7. other factual and legal elements necessary to support entry of judgment.
- B. **Service of Motion for Default Judgment.** The movant must serve the motion for default judgment on the party against whom default is requested.

L.B.R. 7056-1 Motions for Summary Judgment.

- A. **Motion for Summary Judgment.** A motion for summary judgment shall state with particularity, in separately numbered paragraphs, each material fact as to which the movant claims there is no genuine issue. Each such paragraph shall reference the pleading, discovery, affidavit or document that supports such fact. If the motion requires consideration of facts not appearing in the record, the party shall file all documentary evidence relied upon, including affidavits, as an attachment to the motion. The motion may not refer to material facts not presented as evidence in support of the motion. The motion shall also state concisely the legal grounds on which relief should be granted.
- B. **Memorandum in Support.** The moving party shall file with each motion for summary judgment a memorandum in support of the motion, including citations to any authorities upon

which the party relies. The memorandum must also disclose any cases or authorities counsel finds relevant, including those in opposition to movant's position.

- C. **Responses.** Each party opposing a motion for summary judgment shall file a response specifically admitting or denying each of the movant's factual statements. The response must include the reason for denial of any factual allegation and must be supported by reference to the pleadings, discovery, affidavits or documents that support respondent's denial. The response must further list in numbered paragraphs any additional facts that remain in dispute and those facts must be supported by reference to the pleadings, discovery, affidavits or documents that support respondent's allegations. If any response requires consideration of facts not appearing in the record, the party shall file with its response all documentary evidence relied upon, including affidavits, if applicable.
- D. **Memorandum in Opposition.** The respondent must also file a memorandum in support of the response, including citations to authorities on which the respondent relies. The memorandum must also disclose any cases or authorities counsel finds relevant, including those in opposition to respondent's position.
- E. **Response Time.** The response and memorandum must be filed twenty (20) days after service of the motion.
- F. **Replies.** The moving party may file a reply no later than five (5) days after service of the response. Additional replies may be filed by either party only with leave of Court. Any reply may address only matters raised in the response to which the reply relates.
- G. **Page Limits.** Absent leave of Court, no pleading or memorandum regarding summary judgment shall exceed fifteen (15) numbered pages, exclusive of the signature page and attachments.
- H. **Hearings.** Motions for summary judgment will not ordinarily be set for hearing. The Court will set such motions for hearing as it deems appropriate.

PART VIII. APPEALS

L.B.R. 8001-1 Notice of Appeal. A notice of appeal shall contain the title and date of the order appealed and shall be accompanied by a copy of the order being appealed. A separate notice of appeal and filing fee is required for each order being appealed. An appeal of an order denying reconsideration or similar relief may be included in the notice of appeal of the underlying judgment or order.

PART IX. FORMAT OF PLEADINGS, MOTION PRACTICE, GENERAL PROVISIONS

L.B.R. 9004-1 Format and Title of Pleadings.

A. **Captions.** All pleadings and proposed orders shall include a caption identifying this Court and the appropriate division and shall contain the following information set forth on the top right-hand side of the page:

1. case number with judge Code (for pleadings filed after the Court has assigned a case number);
2. chapter (7, 9, 11, 12, 13);

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3. adversary proceeding or motion number (for pleadings filed after the Court has assigned the motion or adversary number);
 4. current hearing date, time, and location (city and courtroom); and
 5. date any response must be filed, if applicable.

The top left-hand side of the page of all pleadings and proposed orders shall include the name of the debtor. Pleadings and orders concerning motions must also list the name of the movant and respondent on the top left, and pleadings and orders in adversary proceedings must list the name of the plaintiff and the defendant. (Local Form 22, Sample Caption).

B. **Title of Pleadings.** All pleadings shall bear a descriptive title accurately stating the nature of the relief sought. If alternative relief is requested, the title must reflect the alternative relief.

C. **Format of Pleadings.** Unless otherwise permitted by leave of Court, all petitions and other documents shall be typed or legibly written on paper eight and one-half (8-1/2) inches by eleven (11) inches, bound only by a staple or clip. Margins shall be no less than one (1) inch and all documents shall be printed on one side only of a sheet of paper using standard, 12-point font. Copies of documents served on parties may be printed on both sides of a sheet of paper for convenience. Parties are encouraged to use binders to organize pleadings and exhibits for courtroom presentations. Without leave of Court, no motion, memorandum or brief shall exceed fifteen (15) pages exclusive of the signature page, certificate of service and attachments. Except for memoranda of law, all factual and legal allegations in any pleading shall be set forth in separately numbered paragraphs.

D. **Certificates of Service.** All pleadings must include a certificate of service identifying:

1. the name and address of each person or entity served with the pleading; and
2. the date and manner of service.

Unless otherwise provided in these Rules (e.g. L.B.R. 9013-3 E. for Chapter 11 cases), names and addresses must be included in the certificate of service and failure to identify the names and addresses of the entities on whom a pleading was served is grounds for denial of the underlying pleading. For these purposes, it is insufficient to state that a pleading was served “on all parties on the matrix” or “on all parties in interest.” The certificate of service must be filed and served contemporaneously with the underlying pleading unless otherwise ordered by the Court. Failure to timely file a certificate of service may result in denial of the underlying pleading.

L.B.R. 9006-1 Time.

- A. **Additional Time after Service by Mail.** When there is a right or requirement to do some act or undertake some proceedings within a prescribed period after service of a notice or other paper, and the notice or paper other than process is served by mail, facsimile or by electronic transmission pursuant to Fed. R. Civ. P. 5 (b)(2)(C) or (D), three (3) days shall be added to the prescribed period.
- B. **Requests for Extension of Time.** All requests for extension of time must be filed prior to expiration of the time permitted to complete the act for which additional time is sought. The request must be made by written motion and must be served as required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and these Rules. The motion must:
 1. indicate if the request is by consent of the other parties;
 2. indicate whether prior extensions have been granted;
 3. indicate the reason for the request for additional time;
 4. provide a date certain for the extended deadline; and
 5. include a proposed order as required by L.B.R. 9050-1.

L.B.R. 9010-1 Entry of Appearance and Participation by Attorneys.

- A. **Entry and Notice of Appearance.** An attorney who has filed an entry of appearance or notice of appearance and request for service must receive copies of all documents required to be served on all creditors and parties in interest unless otherwise ordered by the Court. Any entry of appearance or notice of appearance filed with the Court must be served upon the debtor, the trustee, any entity having previously filed a notice or entry of appearance and, in Chapter 11 cases, upon the United States Trustee.
- B. **Appearance without Attorney - Corporations or Other Business Entities.** A corporation, partnership, trust or other business entity, other than a sole proprietorship, may

L.B.R. 9006-1

appear and act without counsel in a case or proceeding before this Court only for the purpose of attending the meeting of creditors, filing a request for notice and service of documents, and filing a proof of claim or ballot. For all other purposes, such entity may appear and act only through an attorney.

L.B.R. 9011-1 Signatures. All filed documents shall contain the original signature of the party or the party's attorney, where appropriate. Every pleading or document signed by an attorney must include a signature block containing the following information for the attorney signing the document: the law firm name, attorney's name, business address, telephone number, fax number, e-mail address, and registration numbers for the state bar and the United States District Court for the Eastern District of Missouri. Any document signed in a representative capacity for another must have attached to it the document providing signature authority unless such document has previously been filed with the Court. Later filings under the authority of such document shall reference the initial pleading or document to which the authorization was attached.

L.B.R. 9013-1 Motion Practice.

A. **Service of Motions and Responses.** Unless different service is directed, all motions, applications, and related documents and responses thereto must be served upon:

1. the debtor and debtor's attorney;
2. all parties directly affected by the motion or pleading;
3. the trustee and, in Chapter 11 cases, the United States Trustee; and
4. all parties who have filed a request for notice.

In Chapter 13 cases, motions by parties other than the Chapter 13 trustee, must also be served upon all creditors who have filed a proof of claim. In Chapter 11 cases, motions must also be served upon all entities on the Master Service List, (L.B.R. 9013-3 C.) or if no such list exists, upon those who would be on such list. A person or entity who has filed an entry of appearance or request to receive notice or a proof of claim shall be determined by reference to the Court's records at the time the motion is served.

B. **Response Deadline .** Any entity intending to oppose a motion, application or other pleading shall file a written response. Unless otherwise specified, if the matter is set for hearing, any response must be filed no later than five (5) days before the date of hearing. If the matter will be heard on Negative Notice, any response must be filed no later than twenty (20) days after service of the motion, application, or pleading (L.B.R. 9061-1 B). If the matter is one that may be determined without hearing, any response must be filed immediately (L.B.R. 9062-1). Any response must be served upon the movant or applicant and all creditors and parties in interest as directed by L.B.R. 9013-1 A.

- C. **Failure to File Responsive Pleading.** If a response is not timely filed, the Court may enter an order granting the relief requested prior to hearing and may remove the motion or application from the Court calendar unless leave to file a late response is granted. If the respondent appears at the hearing but has failed to file a timely response, the Court may continue the hearing. The respondent must immediately provide movant with written and electronic (i.e. facsimile or e-mail, but not only telephonic) notice of the continued hearing and must file a certificate of service of such notice.
- D. **Memoranda of Law.** Unless otherwise directed by the Court, or in the case of a Motion for Summary Judgment (L.B.R. 7056-1), a memorandum of law is not required in support of a motion. If a memorandum is filed, it must be filed with the motion or at the latest, no later than five (5) days prior to hearing. Without leave of Court, no memorandum shall exceed fifteen (15) pages, exclusive of the signature page, certificate of service and attachments.
- E. **Consent Motions.** The Court may grant a consent motion if the party or counsel filing the motion represents that consent to the motion has been obtained from all necessary parties. Consent motions need not be set for hearing and may be ruled upon without hearing. The title of a consent motion must state the motion is by consent.
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L.B.R. 9013-2 Expedited or Emergency Matters.

- A. **Motion For Expedited or Emergency Hearing.** A request for hearing on an expedited or emergency basis shall be made by written motion, stating the reason the matter should be considered on an expedited or emergency basis. The movant must contact the courtroom deputy to obtain a hearing date and time. “Expedited basis” or “emergency basis” is defined as any hearing within ten (10) days of the filing of the motion on which the emergency hearing is requested.
- B. **Response to Expedited or Emergency Matters.** A response to a motion or application set on an expedited or emergency basis and to the motion seeking expedited or emergency hearing may be filed until the date of the hearing. The respondent must serve the response(s) on the opposing counsel or party as soon as possible and must file the original response(s) with the Court and fax a copy thereof to the assigned courtroom deputy. The fax copy shall not be considered a document “filed” with the Court. (L.B.R. 5005-1 A.)
- C. **Expedited or Emergency Hearings on Motions for Relief from the Automatic Stay.** The Court ordinarily will consider motions for relief from the automatic stay on an expedited or emergency basis only if the movant alleges:
1. lack of insurance on the subject collateral;
 2. pendency of a published or scheduled foreclosure; or
 3. other good cause.

L.B.R. 9013-2

- D. **Ex Parte Motions for Relief from the Automatic Stay.** Ex parte relief from the automatic stay shall be requested following the procedures in Fed. R. Bankr. P. 4001(a)(2).

L.B.R. 9013-3 Chapter 11 Case Administration. The Court on its own motion or on motion of a party at any time and for cause shown, may adopt one or more of the following case administration procedures for a Chapter 11 case.

- A. **Regular Hearing Dates.** The Court may establish Regular Hearing Dates for a Chapter 11 case. Such dates shall be noted on the Court's calendar and may be accessed by interested persons by contacting the Court, viewing the case calendar on the Court's website, and by contacting counsel for the debtor. Unless otherwise directed, all motions in the designated Chapter 11 case will be scheduled for hearing on the Regular Hearing Date.
- B. **Proposed Hearing Agenda.** Two (2) days prior to each Regular Hearing Date, the debtor shall prepare, file, and serve a proposed hearing agenda on all entities on the Master Service List (L.B.R. 9013-3 C.) or on those who would be on such a list and any party with a matter scheduled to be heard. The proposed hearing agenda shall include all matters the debtor knows to be scheduled for hearing but is not determinative of the

matters to be heard nor the order in which they will be heard. It is intended merely for the convenience of the parties. The Proposed Hearing Agenda shall include:

1. the docket number and title of each matter expected to be heard; and
 2. a summary of the status of each matter (i.e. whether a response has been filed, whether the matter is settled or disputed and how long debtor anticipates hearing on the matter will be).
- C. **Master Service and Notice Lists.** The debtor shall maintain a Master Service and Master Notice List containing the names and addresses specified herein. The debtor shall update the lists as necessary, but not less than monthly and shall file the updated list with the Court, identifying the list by date.
1. **Master Service List.** The Master Service List shall contain the names and addresses of:
 - a. the debtor;
 - b. counsel for the debtor;
 - c. counsel for primary secured lenders;
 - d. counsel for any official committees; and
 - e. the United States Trustee.In the event an official unsecured creditors' committee is not appointed, the names and addresses of the twenty (20) largest unsecured creditors shall be on the Master Service List. A party may request to be added to the Master Service List by motion served on all parties identified in this paragraph and any entity requesting notice.

2. **Master Notice List.** The Master Notice List shall contain the names and addresses of all persons on the Master Service List plus any persons or entities who have requested notice in the case.

D. Service of Motions and Notices. Unless otherwise directed by the Court, when Master Service and Notice Lists are designated for use in a Chapter 11 case:

1. The movant or applicant shall serve a complete copy of the motion, application, or pleading on all entities on the Master Service List and on any entity whose interest may be affected by the motion, application, or pleading.
 2. The movant or applicant shall serve a notice of hearing and/or notice of the motion, application, or pleading upon all parties on the Master Notice List. Notices required by Bankruptcy Rule 2002 subdivisions (a)(2), (3), and (6) and by Bankruptcy Rule 4001 shall be served on the Master Notice List. All notices of hearing served pursuant to this paragraph shall include a description of the relief requested in the motion, application or pleading.
 3. Notices required by Bankruptcy Rule 2002 subdivision (a)(1), (4), (5), and (7) and subdivision (b) and (f) shall be served as specified upon all creditors and parties in interest.
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- E. Certificate of Service.** When Master Service and Notice Lists are designated for use in a Chapter 11 case, the certificate of service for any motion, application, or pleading may list the date and number of the Master Service List or Master Notice List instead of listing the names and addresses of each person served. The Master Service List or Master Notice List need not be attached to the pleading served or the certificate of service.

L.B.R. 9015-1 Right to Jury Trial.

- A. **Time and Manner.** Demand for jury trial must be filed and served no later than ten (10) days after service of the last pleading directed to such issue. Failure to file and serve a demand as required by this rule constitutes waiver of trial by jury. When demand is by the plaintiff in an adversary complaint, the demand must be made on the face of the complaint or response to a counterclaim in accordance with E.D.Mo.L.R. 2.04. When demand is by an another party to an adversary complaint, such demand must be made on the face of the answer or other initial response.
- B. **Specification of Issues.** A party seeking jury trial may specify the issues which it wishes to try by jury; otherwise, demand shall apply to all issues so triable. If a party has demanded jury trial of only some issues, any other party may, no later than ten (10) days after service of the demand or such lesser time as the Court orders, serve a demand for jury trial of any other or all issues.

L.B.R. 9015-1

C. **Withdrawal.** A demand for jury trial cannot be withdrawn without order of the Court.

L.B.R. 9016-1 Subpoenas. An attorney may issue a subpoena under Fed. R. Civ. P. 45 and Fed. R. Bankr. P. 9016. (Local Forms 23A, 23B, and 23C, Subpoena Forms.)

L.B.R. 9019-1 Mediation.

A. **Referral of Matters to Mediation.** On the Court's own motion or on motion of a party, the Court may order the assignment of a matter or proceeding to mediation. The order assigning the matter to mediation may:

1. designate a trial date for the proceeding;
2. require the parties to agree upon a mediator within seven (7) days after the date of the order for mediation or require them to propose and file a list of three (3) mediators acceptable to each party from which list the Court may appoint a mediator;
3. require the plaintiff or movant to file a memorandum with the Court advising of the date scheduled for mediation and the name of the mediator. Such memorandum is due no later than fourteen (14) days after entry of the order for mediation or the Court's order appointing a mediator; and
4. direct that the mediator file a mediation report no later than five (5) days after conclusion of the mediation.

B. **List of Mediators.** The Board of Judges shall approve a list of mediators for mediation of bankruptcy proceedings. The parties to a mediation may agree upon a mediator who is not on the approved listed.

C. **Compensation of Mediators.** The amount of compensation required to be paid to the mediator shall be determined by the mediator and parties to the mediation. Absent other agreement by the parties, the cost of the mediator's services shall be borne equally by the parties to the mediation. A trustee's or debtor-in-possession's share of the costs of mediation shall be an expense of the estate.

D. **No Stay of Proceedings.** Unless otherwise ordered, referral of a proceeding to mediation does not stay discovery or other preparation for trial or final hearing.

E. **Mediation Statements.** No later than five (5) days before to the scheduled mediation, all parties to mediation shall provide to the mediator and shall serve on all other parties to the mediation a written statement of the party's position, including relevant facts of law and the party's theory of recovery or defense. The mediation statement shall not exceed seven (7) typewritten pages and shall not be filed with the Court.

- F. **Mediation Conference.** The attorney (if any) and a party representative with authority to bind the party shall attend the mediation conference. The mediator shall report to the Court any willful failure to attend or participate in the mediation.
- G. **Mediation Report.** No later than five (5) days after conclusion of the mediation, the mediator shall file with the Court and serve upon the parties the mediator's report (Local Form 24) advising whether the matter has been resolved. In the event the matter is unresolved, the mediator shall make no further comment or recommendation concerning the matter, and the matter shall proceed as scheduled before the Court. If an agreement has been reached in mediation, no later than ten (10) days after the filing of the mediator's report, the parties shall prepare, and the plaintiff or movant shall file a stipulation of settlement or joint motion for approval of the settlement.
- H. **Confidentiality.** Conduct or statements made in the course of mediation shall constitute "conduct or statements made in compromise negotiations" under Rule 408 of the Federal Rules of Evidence, and no such evidence shall be admitted or disclosed to the Court.

L.B.R. 9024-1 Motions to Reinstate Following Dismissal for Failure to File Required Documents or Attend 341 Meeting.

- A. **Time and Content.** A debtor shall have ten (10) days after entry of an order of dismissal to file a motion to reinstate and set aside dismissal. The motion must state good cause for reinstatement. A case will not ordinarily be reinstated if dismissed for

failure to make an installment filing fee payment, attend the 341 meeting or timely file documents required by 11 U.S.C. § 521(1). A motion to set aside an order of dismissal must contain:

1. the date the deficiency or problem which caused the dismissal was cured;
2. the date the filing fees were paid in full (not just the missed installment) if dismissed for missed installment payment;
3. the date any missing schedules, statement, or plan was filed if dismissed for failure to file such document;
4. the exceptional circumstances warranting reinstatement of the case; and
5. a list of all bankruptcy cases filed by the debtor within the last six years or a statement that the debtor has not filed a bankruptcy case within the prior six years.

- B. **Hearing, Service and Order.** Unless the Court grants a request for hearing, the Court will consider a motion to reinstate under this Rule without hearing. The debtor shall serve the motion on the trustee and, in Chapter 11 cases, on the United States Trustee. If the case is reinstated, the Court will send notice of the reinstatement to all creditors and parties in interest.

L.B.R. 9024-2

The notice of reinstatement shall include a list of all matters pending at the time of dismissal. Any party may set such matter(s) for hearing.

- C. **Effect of Reinstatement on Deadlines.** If a case is dismissed and reinstated before the § 341 meeting is commenced, the deadline to object to discharge in a Chapter 7 case and to object to dischargeability in a Chapter 7, 11 or 12 case shall be sixty (60) days after the rescheduled § 341 meeting. The motion to reinstate shall be the debtor's request to extend these deadlines.

L.B.R. 9024-2 Motions to Reinstate Following Dismissal on Chapter 13 Trustee's Motion to Dismiss for Failure to Make Plan Payments.

- A. **Time, Content and Service.** A Chapter 13 debtor shall have ten (10) days after entry of an order granting the Chapter 13 trustee's motion to dismiss for failure to make plan payments in which to file a motion to reinstate and set aside dismissal and to pay funds to the trustee to bring payments current as of the date of the debtor's motion. The motion must state whether the case was previously dismissed and reinstated and must provide dates of any prior dismissals and orders of reinstatement. The motion must also recite that the debtor has paid funds to the trustee to bring payments current as of the date of the debtor's motion. The debtor shall serve a copy of its motion upon the Chapter 13 trustee, all creditors and parties in interest who have filed a proof of claim, and all entities who have filed a request for notice. No later than ten (10) days after service of the motion, the trustee must file a response to the motion, stating whether the trustee consents or opposes reinstatement. Upon submission of the trustee's consent, the case may be reinstated without hearing. Absent compelling reason, the Court will enter an order without hearing after receipt of the trustee's response.
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- B. **Order Regarding Reinstatement.** The Court shall prepare the order granting or denying a motion to reinstate and shall send a copy of the order to all entities on the matrix. On reinstatement of the case, it is incumbent upon the movant to set for hearing any unresolved motions pending at the time of dismissal.

L.B.R. 9040-1 Exhibits.

- A. **Non-Filing of Exhibits; Use of Exhibit Summary Form.** Except as provided in 9040-1 B., actual copies of exhibits shall not be filed with any motion, pleading, or claim. Instead, an Exhibit Summary (Local Form 9) shall be attached to the motion, pleading, or claim. The Exhibit Summary shall describe the exhibits in sufficient detail to permit the Court and parties to evaluate the factual elements relevant to the motion, pleading, or claim. The description shall include the following, when applicable:
1. basis for the debt, including date;
 2. balance of the indebtedness; and
 3. date and manner of perfection, including book and page number, certificate of title, or UCC-1 recording.

- B. **Exhibits Permitted.** If exhibit(s) is/are two pages or less in length, the exhibit(s) may be filed in place of an Exhibit Summary. Exhibits may also be filed as provided in L.B.R. 4001-1 (regarding Motions for Relief), L.B.R. 7056-1 (concerning motions for summary judgment), L.B.R. 7016-1 (regarding trials in adversary proceedings), or as otherwise stated in these Rules or as permitted.
- C. **Exchange and Filing of Exhibits.** On request, a copy of the exhibits must be provided to opposing counsel no later than three (3) days before hearing. If a matter involving the exhibits remains at issue for hearing by the Court, the parties must:
1. file a copy of their respective exhibits with the Court no later than three (3) days before hearing; and
 2. bring copies of their respective exhibits to hearing in sufficient numbers to provide a complete set for the judge, law clerk, opposing counsel, and witness.
- All exhibits must be indexed and copies for Chambers must be submitted in binders.

L.B.R. 9050-1 Proposed Orders.

- A. **Time for Submission.** Except for proposed orders from the Chapter 13 trustee, a proposed order must be submitted at the time of filing any motion, application, pleading, or other request for relief. Any order submitted to the Court after hearing is an affirmative representation to the Court by the party tendering the order that the order has been circulated to all parties who appeared at the hearing and that there are no objections to the content of the order. If agreement cannot be reached regarding a proposed order, the party tendering the order shall send a letter to the Court with a copy to the opposing counsel advising the Court that agreement has not been reached and providing opposing counsel three (3) days within which to submit a competing order.
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- B. **Content.** The title of the order must describe the motion, application, pleading, or other request to which it relates by title and must indicate whether the order grants or denies the requested relief. The caption of the order must include the date and time of hearing on the related motion, application, pleading, or other request. The text of the order must be sufficiently descriptive to clearly state the relief granted, including a description of any property subject to the order. The end of each order must:
1. contain the name and address of the person who prepared the order;
 2. list the names and addresses of those to be served with the order; however, the name and address of the person who prepared the order need not be included a second time; and
 3. contain a signature line and date line for the judge. The signature line for the judge may not be on a page by itself or otherwise apart from the text of the order.

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- C. **Service and Envelopes in Non-Chapter 11 Cases.** Except in Chapter 11 cases or when otherwise directed by the Court, the Clerk’s Office will serve all orders unless otherwise directed. Provision of labels or envelopes is no longer necessary.
- D. **Service in Chapter 11 Cases.** In all Chapter 11 cases, the Court will ordinarily direct the prevailing party to serve the order and file a certificate of service. All orders in Chapter 11 cases must contain the following statement immediately before the judge’s signature line:
“No later than five (5) business days after the date of this order, _____
(name of party) is directed to serve a copy of the order on all parties listed below and is directed to file a certificate of service no later than two (2) business days after service.”
- E. **Endorsed Orders / “So Ordered”.** In lieu of a separate proposed order, any motion that does not request alternative relief may contain a block that states “So Ordered” along with a date and signature line for the judge.

L.B.R. 9060-1 Notices and Hearings.

- A. **Scheduling Hearings.** Unless a motion, application, or pleading may be heard on Negative Notice or may be considered without hearing, the movant shall contact the courtroom deputy for the judge before whom the matter is pending or shall consult the Court’s web page to obtain a hearing date and shall send notice of hearing as stated herein.

B. **Format of Notice of Hearing.**

1. **Content of Notice of Hearing.** The notice of hearing must:
- identify the motion or pleading to which it relates;
 - state the hearing date, time, and place in the caption;
 - contain or be accompanied by a certificate of service conforming to L.B.R. 9004-1 D.; and
 - state in bold print, substantially the following:

WARNING: Any response or objection must be filed with the Court by _____ (month, date & year) (See L.B.R. 9013-1 B. and 9013-2, or other Rule as applicable). A copy must be promptly served upon the undersigned. Failure to file a timely response may result in the Court granting the relief requested prior to the hearing date.

2. **Combined Motion and Notice of Hearing.** When both a notice of hearing and motion will be served, they may be combined into one document by including the text of the notice at the beginning of the motion. If a combined notice and motion format is used, the title of the document must indicate that the pleading is both a notice and a motion. Objections to claim may follow the format of Local Forms 10, 11, and 12.
- C. **Service of Notice of Hearing.** Movant must serve the notice of hearing upon the same parties served with the motion. (L.B.R. 9013-1 A.) When a motion is heard on an expedited or emergency basis (L.B.R. 9013-2), the motion and notice of hearing must be served as expeditiously as possible (e.g. by personal service or electronic means) upon opposing counsel or upon the opposing party if not represented by counsel, and any other necessary parties.
- D. **Maintenance of Clerk's Mailing Matrix – Returned Notices.**
Any entity providing notice under the Federal Rules of Bankruptcy Procedure or under these Local Rules shall make a reasonable effort to obtain correct addresses for any entity for whom a notice was returned with a wrong or undeliverable address. Except upon order of the Court and notwithstanding that a good address cannot be obtained after reasonable effort, future notices shall continue to be mailed to such address. Notice of any corrected address and of an address known to be wrong or undeliverable must be filed with the Court using Local Form 25. The Clerk shall update the case matrix with current addresses upon receipt of this information.
- E. **Continuance of Hearings.** If all parties consent to the continuance of a hearing, the request to continue may be made by one of the parties by contacting the courtroom deputy for the assigned judge. All other continuances in advance of any hearing must be made by written motion and served upon the opposing party or counsel.

L.B.R. 9061-1 Negative Notice Procedures.

- A. **Negative Notice.** Certain motions or pleadings may be considered by the Court without setting a hearing date if appropriate notice and opportunity to object to the requested relief are provided to necessary parties ("Negative Notice"). Negative Notice may be used for the following types of motions or pleadings:
 1. motions to compel abandonment of property;
 2. motions to avoid liens on exempt property;
 3. motion to approve trustee's final report;
 4. motions to dismiss a Chapter 7, 11, 12 or 13 case;
 5. motions to convert case, but not from a Chapter 12 or 13 case;
 6. fee applications, except in Chapter 11 cases;
 7. objections to claims in Chapter 13 cases; and
 8. in Chapter 13 cases, in addition to applicable items stated above, the following motions:
 - a. motions to retain a tax refund;

- b. motions to incur debt; and
 - c. motions to sell or refinance property.
- 9. Other matters may be set on Negative Notice as authorized by the Court.

- B. **Response to Matters set on Negative Notice.** Unless otherwise stated herein, any party served with a motion or pleading to be heard on Negative Notice shall have twenty (20) days after service to file a response to the motion or pleading. The respondent must serve the response immediately upon the movant or applicant and upon all entities described in L.B.R. 9013-1 A.

- C. **Format for Negative Notice.** Any motion, application, or pleading set on Negative Notice shall include a warning in substantial compliance with the following, using bold print, capitalized text, appearing immediately below the title of the pleading:

PLEASE TAKE NOTICE: ANY RESPONSIVE PLEADING IN OPPOSITION TO THIS MOTION/PLEADING MUST BE FILED IN WRITING NO LATER THAN TWENTY (20) DAYS FROM THE DATE OF SERVICE OF THIS MOTION/PLEADING AS SHOWN ON THE CERTIFICATE OF SERVICE. (See L.B.R. 9013-1 B., 9061-1 B.) THE RESPONSE MUST BE IMMEDIATELY SERVED UPON THE UNDERSIGNED AND UPON ALL ENTITIES DESCRIBED IN L.B.R. 9013-1 A. THE COURT MAY GRANT THE MOTION/PLEADING WITHOUT FURTHER NOTICE TO ANY PARTY UPON EXPIRATION OF THE RESPONSE PERIOD IF NO RESPONSE IS FILED.

IF A RESPONSE OR OBJECTION IS FILED, THE MOVANT, APPLICANT OR CLAIM OBJECTOR SHALL SET THE MATTER FOR HEARING AND PROVIDE NOTICE THEREOF TO THE RESPONDENT AND ALL ENTITIES DESCRIBED IN L.B.R. 9013-1 A.

- D. **Notice of Hearing when a Response is Filed.** If a response is filed, the movant, applicant or claim objector must schedule the matter for hearing by contacting the courtroom deputy for the assigned judge or by consulting the Court's website. Such party must file and serve a notice of hearing upon the respondent and all entities described in L.B.R. 9013-1 A. The notice of hearing shall provide the amount of notice specified below. Nothing precludes any party or the Court from setting a matter for hearing if a response is filed.

- 1. **Ten (10) days notice of hearing required for:**
 - a. motions to compel abandonment of property;

- b. motions to avoid liens on exempt property;
- c. motion to approve trustee's final report; and
- d. motions to dismiss (except as noted below).

2. **Twenty (20) days notice of hearing required for:**

- a. motions to convert case, but not from a Chapter 12 or 13 case;
- b. motions to dismiss a Chapter 7, 11, 12 case;
- c. fee applications, except in Chapter 11 cases; and
- d. in Chapter 13 cases:
 - i. motions to retain a tax refund;
 - ii. motions to incur debt; and
 - iii. motions to sell or refinance property.

3. **Thirty (30) days notice of hearing required for:**

Objections to claims in Chapter 13 cases.

- E. **Certification of No Response / Certification of Resolution.** If no response is filed, or if any response has been resolved prior to hearing, movant shall file with the Court a "Certification of No Response / Certification of Resolution" along with either a revised proposed order or a request for the Court to enter the proposed order submitted when the motion was filed. The Certification of No Response or Resolution must be filed no later than five (5) days after the response deadline. If a response has been filed and the matter is thereafter resolved, the Certification of No Response or Resolution may be filed at any time prior to hearing. The Certification of No Response or Resolution must state substantially the following:

"The undersigned certifies that all entities entitled to notice of _____[Name of Movant]'s _____[Title of Motion or Pleading] in accordance with Local Bankruptcy Rules have been served with the foregoing motion/pleading/objection and the time for response has passed. No responses in opposition have been filed or any responses in opposition have been resolved. Movant requests the Court enter the proposed order previously submitted or the attached order which supercedes any prior proposed orders."

- L.B.R. 9062-1 Matters Without Hearing.** Unless otherwise directed, the Court will ordinarily consider the following matters without hearing. Nothing, however, precludes any party from setting any of these matters for hearing. Copies of any motion or application that will not be set for hearing under this Rule must be served upon all entities entitled to notice as specified in the Federal Rules of Bankruptcy Procedure or in these Rules. Any response must be filed and served immediately.

- 1. motions filed with consent;
- 2. motions to extend time for filing schedules and statements;
- 3. motions to extend time for filing objections to exemptions and discovery responses;

4. motions to extend time for filing objections to discharge or dischargeability;
5. applications to appear pro hac vice;
6. applications to employ professionals (attorneys, real estate brokers, appraisers, auctioneers, etc.) where compensation is the standard rate charged for such services;
7. trustee motions to approve sales of property less than amount stated in Fed. R. Bankr. P. 6004(d);
8. trustee motions to reopen Chapter 7 cases to administer additional assets;
9. debtor motions to convert a Chapter 11 or Chapter 7 case to a case under another Chapter, when a discharge has not been entered, as authorized under 11 U.S.C. § § 706(a) and 1112(a);
10. motions to reinstate cases following dismissal for failure to file required documents, pay filing fees, or attend § 341 meeting;
11. motions to reinstate a Chapter 13 case following:
 - a. dismissal for failure to make plan payments when reinstatement is with the consent of the trustee; or
 - b. dismissal on a creditor's motion when reinstatement is with the consent of the creditor.
12. motions for Rule 2004 examinations pursuant to procedure set forth in these Rules;
13. requests to set claims bar date; and
14. motions to withdraw as counsel.

L.B.R. 9063-1 Telephone and Video Conferences and/or Hearings. An attorney or a party may request to participate in any hearing by telephone or video conference by contacting the judge's courtroom deputy at least five (5) days before the date of the hearing. Prior to contacting the Court for permission, the party or counsel seeking to appear by telephone or video conference must obtain the consent of all other parties to the electronic or telephonic appearance. Unless the judge otherwise directs, this procedure is available only to attorneys and parties who are not residents of the Eastern Division and to attorneys whose principal office is not within the Eastern Division. If authorized by the Court, the telephone or video conference is to be initiated by the requesting attorney or

party. Such hearings may be deferred by the judge to the end of the hearing calendar. All parties must remain available for the Court's call from the scheduled hearing time until the end of the day's hearing calendar. The Court need not postpone the hearing because of a party's unavailability or because of problems with telephonic or video transmission.

END